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LEGISLATIVE HISTORY

H. R. 7577

VETOED

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INDEX AND SUMMARY OF H. R. 7577

June 4, 1959	Rep. Celler introduced H. R. 7577 which was referred to the House Judiciary Committee. Print of bill as introduced.
June 23, 1959	House committee voted to report (but did not actually report) H. R. 7577.
June 26, 1959	House committee reported H. R. 7577 with amendments. H. Report No. 581. Print of bill and report.
July 6, 1959	House passed H. R. 7577 as reported.
July 7, 1959	H. R. 7577 was referred to the Senate Judiciary Committee. Print of bill as referred.
May 25, 1960	Senate committee reported H. R. 7577 with amendments. S. Report No. 1425. Print of bill and report.
June 2, 1960	Senate passed H. R. 7577 as reported.
June 6, 1960	House agreed to Senate amendments to H. R. 7577.
June 13, 1960	House received President's veto message on H. R. 7577. H. Doc. 415

DIGEST OF H. R. 7577 (VETOED)

MOTOR VEHICLE OPERATION; PERSONNEL. H. R. 7477, which would have provided that when a Government driver was sued in a State court on a claim resulting from his operation of a motor vehicle while acting within the scope of his employment, such action could have been removed, upon the consent of the plaintiff, to the appropriate U. S. district court. There it would have become an action against the United States under the Federal Tort Claims Act and would have been the plaintiff's exclusive judicial remedy. Government drivers would have thus ceased to have been defendants and would have been relieved of personal liability in such cases. Vetoed June 11, 1960.

86TH CONGRESS
1ST SESSION

H. R. 7577

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 1959

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for others purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States

as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service of knowledge or service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the

United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

86TH CONGRESS
1ST SESSION

H. R. 7577

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

By Mr. CELLER

JUNE 4, 1959

Referred to the Committee on the Judiciary

June 23, 1959

HOUSE

7. HOUSING. By a 241 to 177 vote, agreed to the conference report on S. 57, the housing bill for 1959 (pp. 10553-63). This bill will now be sent to the President. See Digest 102, item 2, for a summary of items of interest to this Department.

8. FEDERAL-STATES RELATIONS. Continued debate on H. R. 3, to establish rules of interpretation governing questions of the effect of Acts of Congress on State laws (pp. 10564-606). A number of court cases involving the USDA or the agricultural field were cited in the debate. Rep. Meader explained that an example of "undermining State laws by the Federal preemption doctrine" was a city ordinance to regulate the sale of beef that was "struck down" by the courts by holding that USDA regulations applied to interstate transported meat (p. 10577) Rep. Vanik stated that if H. R. 3 passes, "Illinois could outlaw tobacco products in the public health. Virginia could outlaw Wisconsin milk because of a greater radiation, while Delaware could outlaw cotton goods for some reason ..." (p. 10602). Rep. Santangelo stated that "this bill, if enacted, will produce chaos in the legal relationship governing substantial areas of economic and political life." (p. 10583).

19. PEANUTS. A subcommittee of the Agriculture Committee voted to report to the full committee with amendment H. R. 4938, to continue the exemption of green peanuts from acreage allotments and marketing quotas. p. D518

20. PERSONNEL. The Judiciary Committee voted to report (but did not actually report) H. R. 7577, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. p. D519

21. MONOPOLIES. The Judiciary Committee voted to report (but did not actually report) with amendment S. 726, to provide for the more expeditious enforcement of cease and desist orders. p. D519

22. INFLATION. Rep. Swengle spoke on "The Problem of Inflation." pp. 10608-11

23. APPROPRIATIONS. Received from the President a proposed supplemental appropriation estimate in the amount of $4,862,000 for the fiscal year 1960 for various agencies of the executive branch (H. Doc. 182). The request includes no funds for this department. p. 10618

24. LEGISLATIVE PROGRAM. Rep. McCormack received consent to make it in order on next Tues., under suspension of rules, to consider a resolution to continue certain appropriations pending enactment of regular appropriation bills, and he announced that with the termination of consideration of H. R. 3 there "will be no further legislation for this week." (p. 10606)

ITEMS IN APPENDIX

25. RIVER BASIN. Extension of remarks of Sen. Neuberger inserting an editorial suggesting the need for strengthening the Columbia Basin Interagency Committee. p. A5389

26. AREA REDEVELOPMENT. Extension of remarks of Rep. Edmondson discussing and inserting statistics supporting S. 722, the proposed area redevelopment bill. p. A5391

27. MILK. Rep. Flood inserted a letter and a Pa. State resolution opposing certain proposed milk sanitation standards and Federal milk marketing orders. p. A5393

28. WATERSHEDS. Extension of remarks of Sen. Murray inserting a statement by Sen. Hayden describing the Arizona watershed program. pp. A5394-5

29. LAWS. Extension of remarks of Rep. Burke opposing H. R. 3, to establish rules of interpretation governing questions of the effect of acts of Congress on State laws. p. A5403

30. FARM LABOR. Extension of remarks of Rep. Roosevelt inserting an editorial, "Big Farmers' Free Ride on Public Stirs Scandal," and stating that it bolsters the position of those favoring legislation to bring farmworkers, "America's forgotten people," under minimum wage protection. p. A5415

31. SOIL BANK. Extension of remarks of Rep. Breeding favoring "a larger and more realistic appropriation for the conservation reserve program." pp. A5415-6

32. FAIR TRADE. Rep. Alger inserted testimony before the Senate Committee on Interstate and Foreign Commerce in opposition to bills which would establish Federal sanction for resale price maintenance. pp. A5417-20

33. REGULATORY AGENCIES. Rep. Rogers, Tex., commended and inserted an address by Rep. Harris, "The Procrustean Bed of Administrative Regulation." pp. A5421-4

34. FOREST PRODUCTS. Extension of remarks of Rep. Miller, Calif., commending the Junior Logging Conference as a most useful and beneficial program sponsored by the forest products industries of Calif. pp. A5430-1

35. COOPERATIVES. Rep. Johnson, Wis., inserted an editorial "Vertical Integration at the Grassroots," telling of the "success story" of a cooperative creamery. pp. A5431-2

36. WATER POLLUTION. Rep. Johnson, Colo., inserted an article, "Your Water Is Threatened By Pollution." pp. A5433-4

37. INFORMATION. Extension of remarks of Rep. Moss inserting a statement by Sen. Humphrey giving an account of some of the "censorhsip obstacles" encountered by the Senate Government Operations Committee and stating that the statement illustrates "the necessity for congressional committees to be ever alert for attempts by executive agencies to misuse secrecy labels ..." pp. A5434-5

HOUSE (cont'd)

38. AGRICULTURAL APPROPRIATION BILL, 1960. The "Daily Digest" states that the "Conferees continued, in executive session, to resolve the differences between the Senate- and House-passed versions of H. R. 7175, fiscal 1960 appropriations for the Department of Agriculture, and related agencies, but did not conclude their work, and recessed subject to call of the Chair."

BILLS INTRODUCED

39. FORESTRY. S. 2240, by Sen. Murray (for himself and others), and H. R. 7919, by Rep. Metcalf, to authorize the appropriation of funds for carrying out provisions of sec. 23 of the Federal Highway Act, to enable the Secretary of Agriculture to construct timber access roads, to permit maximum economy in harvesting national forest timber; to Public Works Committee. Remarks of Sen. Murray. pp. 10486-8

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued June 29, 1959
For actions of June 26, 1959
86th-1st, No. 107

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HIGHLIGHTS: House committee reported resolution disapproving reorganization plan to transfer forest land authorities from Interior to USDA. House received from President proposed appropriations for mutual security program. House committee reported supplemental appropriation bill. House committee reported appropriation continuation measure.

HOUSE

1. FORESTRY; REORGANIZATION. The Government Operations Committee reported without amendment H. Res. 295, to disapprove Reorganization Plan No. 1 of 1959 which would transfer certain forest land authorities from Interior to USDA (H. Rept. 586). p. 10917

2. APPROPRIATIONS. The Appropriations Committee reported (June 25) without amendment H. J. Res. 439, the continuing resolution making temporary appropriations after June 30 pending the enactment of the remaining regular appropriation bills. (H. Rept. 578). p. 10917

3. MUTUAL SECURITY APPROPRIATIONS. Received from the President proposed appropriations for the fiscal year 1960, in the amount of $3,929,995,000, for the mutual security programs (H. Doc. 188). p. 10916

4. SUPPLEMENTAL APPROPRIATION BILL, 1960. The Appropriations Committee reported without amendment this bill, H. R. 7978 (H. Rept. 579). (pp. 10889, 10917) See Digest 106 for items of interest to this Department.

5. MONOPOLIES. The Judiciary Committee reported with amendment S. 726, to amend the Clayton Act so as to provide for the more expeditious enforcement of cease and desist orders issued under the act (H. Rept. 580). p. 10917

6. PERSONNEL. The Judiciary Committee reported with amendment H. R. 7577, to amend title 28 of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment (H. Rept. 581). p. 10917

7. LABOR-HEW APPROPRIATION BILL, 1960. Conferees were appointed on this bill, H. R. 6769 (p. 10889). Senate conferees have already been appointed.

8. FOREIGN TRADE. Received from the President the annual report on the operation of the trade agreements program (S. Doc. 31). p. 10890

9. CREDIT UNIONS. Several Representatives spoke in commemoration of the 25th anniversary of enactment of the Federal Credit Union Act. pp. 10890, 10891-2, 10893 909

10. TEXTILES; COTTON. Rep. Dorn criticized the "unrealistic Government cotton program," and contended that "consumers of cotton textiles have seen the retail prices for such products decline in the past 10 years while the farm value of cotton in these products increased." p. 10892

11. PERSONNEL; HOLIDAYS. Rep. Johansen opposed enactment of H. R. 5752, to grant time off for Federal employees for holidays falling on Saturdays, and inserted a letter he had sent his colleagues opposing the bill. pp. 10892-3

12. ADJOURNED until Mon., June 29. p. 10916

ITEMS IN APPENDIX

13. LIBRARIES. Rep. Madden inserted a speech by the President of the American Library Association expressing the Association's thanks to Congress for enacting legislation aiding the library field. pp. A5524-5

14. RECLAMATION. Rep. Burdick inserted a resolution by the N. Dak. State Water Conservation Commission urging restoration of the House reduction in the 1960 Public Works budget for the Garrison Diversion Unit. p. A5525.

15. WHEAT. Rep. Burdick inserted a GTA article commending the wheat bill and criticizing Life magazine's view of farmers. pp. A5526-7

16. FARM PROGRAM. Rep. Dorn, S. C., inserted a letter criticizing the price support program as a "subsidy ... for the favored few." p. A5536

17. CORN. Rep. Coad inserted an article stating that a minimum or no acreage restriction will cause an all-time high in corn yield and that Congress may have to apply stricter Government production controls on corn. p. A5540

18. AREA REDEVELOPMENT. Rep. Flood inserted a table, "Congressional Districts with Labor Markets Suffering from Substantial Labor Surplus," giving approximate dates for eligibility for aid under the area redevelopment bill. pp. A5544-8

86TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 581

A BILL TO AMEND TITLE 28, ENTITLED "JUDICIARY AND JUDICIAL PROCEDURE," OF THE UNITED STATES CODE TO PROVIDE FOR THE DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES ARISING OUT OF THEIR OPERATION OF MOTOR VEHICLES IN THE SCOPE OF THEIR EMPLOYMENT, AND FOR OTHER PURPOSES

JUNE 26, 1959.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 7577]

The Committee on the Judiciary, to whom was referred the bill (H.R. 7577) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, line 14, strike out "of knowledge or" and insert in lieu thereof "or knowledge of".

Amend the title to read:

> A bill to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

PURPOSE

The purpose of the proposed legislation is to amend section 2679 of title 28, United States Code, to provide that the remedy against the United States provided by the tort claims provisions of that title for damage to property, personal injury or death resulting from the operation of a motor vehicle by an employee of the United States

within the scope of his employment shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee involved or his estate. The bill provides for notice to the U.S. attorney of the commencement of any action against an employee, and for the defense of any such action by the Attorney General with the requirement that those actions be removed to a U.S. district court for trial. The Attorney General would be granted authority to settle such claims in accordance with the authority presently contained in section 2677 of title 28.

STATEMENT

The provisions of the bill are intended to meet the existing problem of personal liability of U.S. employees who must drive motor vehicles as a part of their jobs. The Federal Tort Claims Act made it possible for individuals to bring tort actions against the Government in the Federal courts. However, the provisions of that act as now codified in title 28 of the United States Code do not afford a Government employee relief in those instances where an action is brought against him alone. Thus the authority is provided in title 28 for the bringing of suits against the United States based upon the very accidents which may also give rise to suits against the individual drivers. The tort claims provisions of title 28 further provide for the administrative settlement of claims up to $1,000 under the same circumstances. The result of the situation is that all of the persons who operate vehicles for the United States face the possibility of being sued as individuals for incidents which occur while they are performing duties in behalf of the Government.

Each session of the Congress a number of private bills are introduced to grant relief to individual employees who have been proceeded against in this manner. Each of these bills is referred to the Committee on the Judiciary with the result that this committee is fully aware of the problem and the inherent unfairness of the situation. The facts of these cases demonstrate that both from the standpoint of judicial procedure, and from the standpoint of justice to employees, the amendments proposed in the bill should be enacted. The number of suits filed against individual Federal drivers is a comparatively small number as compared to the number of matters handled under the terms of the tort claims provisions of title 28, and those cases which have resulted in judgments against the drivers and have become the subjects of private bills have generally involved small amounts. Under normal circumstances the injured party prefers to bring his action against the United States rather than against a man of limited resources who happened to have been driving the Government vehicle. As would be expected, when the action has been brought against the individual driver the judgments involved have been for relatively small amounts, but those judgments work a real hardship on the employee. While the Government has adopted a general policy of affording counsel and representation to employees sued in this manner, this does not help when a judgment has been entered against the man. The employee is then faced with the alternative of settling the judgment or of prosecuting an appeal. Very often the employee is forced to conclude the matter by paying the judgment or of prosecuting an appeal. Because of the additional expense and difficulty involved

with an appeal, the employee is often forced to conclude the matter by paying the judgment.

The problem of the Government driver in this situation has been clearly demonstrated by those cases which gave rise to the private relief bills considered by this committee. In one case an individual had submitted his claim under the Tort Claims Act for administrative settlement, and had been turned down on the ground that the accident had resulted from his own negligence rather than from the actions of the Government driver. The claimant then secured a judgment against the driver in a State court, and the driver was required to pay that judgment. The department concerned made a favorable report on the bill to this committee, but, apart from the enactment of the private bill, nothing could be done for the driver. Another similar instance was the subject of a private bill case before this committee in which a claimant filed a claim under the Tort Claims Act, and then decided to press for judgment against the driver in a State court. He proceeded to judgment, and the driver was forced to pay.

This problem concerning the liability of its employees is a matter of direct concern to the United States. The threat of this sort of liability to all Government employees who must operate vehicles in the course of their employment has an adverse effect on the efficiency and morale of those employees. This relationship between the Government and its employees was considered by the Supreme Court in the case of *United States* v. *Gilman*, 347 U.S. 507 (1954), and the Court made this statement concerning the importance of that relationship to the conduct of governmental affairs:

> The relations between the United States and its employees have presented a myriad of problems with which the Congress over the years has dealt. Tenure, retirement, discharge, veterans' preferences, the responsibility of the United States to some employees for negligent acts of other employees—these are a few of the aspects of the problem on which Congress has legislated. Government employment gives rise to policy questions of great import, both to the employees and to the executive and legislative branches.

The contents of the communication of the General Services Administration and the report of the Post Office Department clearly show this vital interest of the United States in solving this problem. In its communication, the General Services Administration notes that the Federal Government is steadily increasing its use of motor transport as a part of its day to day operations. Since the Government must continue to utilize motor vehicles to render its required services, it must be recognized that those vehicles must be operated by competent and reliable drivers. The threat of personal liability hardly aids in attracting and holding the responsible sort of employee required for such work.

The bill, H.R. 7577, with some modifications, embodies the language recommended to the Congress in the executive communication of the General Services Administration. The representatives of the agencies of Government which are affected by this problem have discussed this situation, and have determined that the amendment proposed in H.R. 7577 to title 28 of the United States Code will provide the necessary relief with greater simplicity in administration, and with

far less expense to the Government than would be possible were the Government empowered to indemnify its employees against loss or to provide them with liability insurance. This bill provides the practical and logical way of meeting the problem by amending the tort claims provisions of title 28 so that suits against the employee-drivers will be tried as tort claims actions asserted against the United States. This is a logical approach for the relevant section of that title, section 1346(b) presently provides that such actions may be brought against the United States when they are based on injury, loss of property, personal injury, or death caused by:

> * * * the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

This committee feels that this approach provides for the practical resolution of this lack in the law concerning the liability of Government drivers, and has the additional merit of benefiting the Government by increasing the morale of its employees by removing the threat of such suits against them in their individual capacities.

ANALYSIS OF THE BILL

The provisions embodied in H.R. 7577 are based on the recommendations of an executive communication from the General Services Administration with some additional language included as the result of committee consideration of the matter. The communication of the General Services Administration sent to the Speaker of the House on January 9, 1959, included a suggested draft of a bill. H.R. 3283 was introduced pursuant to those recommendations, and a full hearing was held on H.R. 3283 and related bills on March 18 and 19, 1959. While H.R. 7577 is based on the recommendations of the same executive communication, it is felt that the changes and additions made in the latter bill clarify the new language which is to become part of section 2679 of title 28.

Section 2679 of title 28 of the United States Code would be amended by the addition of four new subsections. Subsection (b) is the basic provision of the bill, for it makes the remedy provided by section 1346 (b) of title 28, relating to tort actions against the United States, the sole remedy for property damage, personal injury or death resulting from the operation of a motor vehicle by a Government employee in the scope of his employment. This would exclude suits against employees in their individual capacities on the same claims. Therefore the new language would only apply when the employee is acting in his official capacity at the time of the incident giving rise to the claim, and does not provide the basis for any liability against the United States based on the unauthorized use of Government motor vehicles. The communication of the General Services Administration cites section 5 of the Suits in Admiralty Act (45 U.S.C. sec. 745) as a precedent for this provision. That act provides that the remedy by suit against the United States provided therein with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of the same subject

matter against the agent or employee of the United States whose act or omission gave rise to the claim. Similarly, the provisions of section 1498 of title 28 grants the owner of a patent the remedy of an action against the United States in place of his claim against a Government contractor for infringement of a patent. In providing a right of action against the United States, this statute has been construed to give the owner of the patent the exact equivalent of the right against the contractor. *Richmond Co.* v. *United States*, 275 U.S. 331 (1928).

The provisions of H.R. 7577 differ from the original General Services Administration language in that specific reference is made to section 1346(b) concerning tort actions against the Government, and further reference is made to an employee's estate so that the remedy against the United States is made exclusive as to any action against the employee's estate as well as against the employee.

The specific purpose of protecting Government drivers against the hazard of being subjected to suits is implemented by subsections (c) and (d) set forth in the bill. These subsections provide procedures for handling cases which would fall within the categories actions of described in subsection (b) added by the bill. Subsection (c) provides that the interested agencies of the United States shall be given notice so that the employee can be defended by the Attorney General. In this connection it is provided that:

> The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government for any such damage or injury.

H.R. 7577 provides that the employee is to deliver, within the period fixed for such cases by the Attorney General, a copy of all process served upon him to his immediate superior or to the person designated to receive such papers. The person designated to receive those papers is to immediately furnish copies to the U.S. attorney, the Attorney General, and to the head of the employing agency. It is intended that this provision will have the effect of assuring that employees will be assisted in obtaining the aid contemplated in the bill.

Subsection (d) requires that any such action brought in a State court shall be removed to the U.S. district court for the district and division for the place in which the action is pending. In the U.S. district court the proceedings are to be deemed a tort action against the United States under title 28. After removal, if the U.S. district court should determine on a hearing on a motion to remand held before trial on the merits that there is no remedy within the meaning of subsection (b) against the United States, the case shall be remanded to the State court. This provides for a prompt determination of the question of whether a remedy exists within the framework of the Federal tort claims provisions of title 28. The express recognition of a right to have a case remanded for further proceedings in the State court in the event of a determination that there is no remedy within the meaning of subsection (b) assures the continuity of the proceeding so that the applicable statute of limitations will not run and have the effect of barring a remedy against the individual driver where he is found not to have been entitled to the protection contemplated in this bill.

Subsection (e) grants the Attorney General the authority to settle cases in the same manner as he now does under section 2677 of title 28.

The committee feels that this is a particularly important provision, for there may be cases in which the Attorney General will find it is to the advantage of the United States to settle the matter at the earlier stages of the proceeding. In those instances where the proceeding is commenced in a State court this settlement can be effected before removal to a U.S. district court. This makes possible the elimination of unnecessary delay and difficulty to everyone concerned, for if the case is a proper one for settlement it is only logical to provide authority for settlement without requiring removal to the Federal court.

Section 2 provides that the amendments provided for in the bill are to take effect 6 months after enactment. It is further expressly provided in that section that any rights or liabilities existing at that time are not to be affected.

CONCLUSION

The committee has concluded that the facts presented at the hearings on this matter and outlined in this report and the communication from the General Services Administration clearly show the need for the amendment to title 28 provided for in H.R. 7577. Therefore the committee recommends that the bill be considered favorably.

The executive communication of the General Services Administration is as follows:

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 9, 1959.

Hon. SAM RAYBURN,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: There is enclosed for your consideration a draft of a bill to amend title 28, entitled "Judiciary and Judicial Procedure" of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This legislative proposal is designed to solve the problem of the personal liability in suits for damages to which employees of the Federal Government are subject as a result of their operation of motor vehicles in the performance of official duties. The objective would be attained by an amendment of the Federal Tort Claims Act (28 U.S.C. ch. 171).

That act, which in effect gives general consent for tort suits against the Government itself brought in Federal courts, does not, in its present form, afford to the Government employee relief or protection against damages assessed against him personally when sued in a State court. While Government employees driving motor vehicles in the course of their official duties may protect themselves from liability by obtaining insurance, they must pay for it out of their own pockets.

The increasing use of motor transport by the Federal Government as a part of its day to day operations, coupled with the augmented costs of public liability and property damage insurance coverage available to Federal employees to protect themselves in the operation of vehicles on Government business, has imposed a heavy financial burden on the large number of such employees whose work entails their driving of motor vehicles on behalf of the Government and who, as a matter of prudent self protection, purchase insurance to protect themselves from personal liability. Few of these employees are in

the high or even medium pay grades. It is not, therefore, surprising that they complain because of their assuming what they regard as an inequitable burden, and one of which they feel that the Government, as their employer, should relieve them. It is our understanding that drivers of fleet trucks and other vehicles for private concerns are not ordinarily required to provide their own insurance protection.

It is, accordingly, the opinion of GSA, apparently shared by a number of other Government agencies with the representatives of which we have had informal discussions, that the Federal Government should, by one means or another, assume responsibility for claims and damages against its employees arising from the operation by them of vehicles in the scope of their Government employment.

A number of legislative proposals have been made to afford relief in the aforementioned situation. Some of the bills would provide for indemnification of drivers against liability arising out of their operation of motor vehicles in the performance of their official duties for the Government. In this type of legislation the Federal agency concerned would be required to pay the driver after his liability has been determined in court and he has satisfied the judgment of the court; to pay the person suffering the damage or injury if the judgment of the court is not satisfied; and to settle and pay claims not reduced to judgment. Provision is also made that costs of defending suits shall be borne by the United States, and, in addition, that the concerned Federal agency reimburse the employee driver for counsel retained by him. This type of legislation, however, presents the likelihood of considerable difficulties in administration and of heavy expense to the Government, and is open to the further criticism that, as to actions in State courts, judgments payable by the Government would usually be obtained by trial by jury, a procedure at variance with the requirement expressed in title 28, United States Code, section 2402, that actions against the United States under the Federal Tort Claims Act shall be tried by the court without a jury.

An alternative solution of the problem of the personal liability of the employee driver has been suggested in the form of legislation to provide for the procurement by the Government, at its expense, of insurance covering its civilian officers and employees against liability for damage to property or for personal injury, including death, resulting from the use of motor vehicles by such officers or employees in the performance of official Government duties. Several bills which have been introduced include this insurance proposal, of which H.R. 2004 of the 85th Congress is an example.

However, after exploration, and discussion with representatives of interested agencies, we believe that the procurement by the Government of liability insurance would entail substantial and needless expense.

It is felt that the enclosed legislative proposal, which would attack the problem by way of amendment to the Federal Tort Claims Act, and which has been evolved after considerable discussion with representatives of other interested agencies, will afford the needed relief both with greater simplicity in administration and with far less expense to the Government than would be entailed by either the indemnification or the insurance bills. By this amendment the handling of the suits against the employee driver personally would be fitted into the existing mechanism afforded by the Federal Tort Claims Act, and

it is hard to conceive that the yearly amounts which would be paid out by the Government under the measure, including costs of administration, would ever amount to more than an insignificant fraction of the disbursements which would be made annually by the Government for premiums to protect its employee drivers against liability for property damage and personal injury under the insurance proposal.

In the first place, the enactment of the Federal Tort Claims Act amendment would greatly reduce the amounts which the Government now pays out under private bills from time to time enacted for the relief of individual Government drivers who have suffered liability. Another point for consideration is that the Department of Justice, having in mind the amenability of the United States to suits for acts of its employees under the Federal Tort Claims Act, has for some time, for the protection of the Government, been following the general policy of affording counsel and representation to Government employees who are sued in their personal capacity as a result of the performance of their official duties. Thus the provision of the enclosed bill for defense by the Attorney General of actions against driver employees should not impose any great new burden on that Department in terms of either administration or expense. Furthermore, experience shows that comparatively few suits are brought against employee drivers in their personal capacities in State courts. The plaintiff normally sues the United States under the Federal Tort Claims Act and thus enjoys the assurance of solvency in the prospective judgment debtor. However, such suits against the employee driver personally are, from time to time, instituted, and it is to protect himself against the risk of liability being established against him in such a suit that the driver, as a matter of prudence, purchases liability insurance out of his own pocket. Thus it is not anticipated that under the amendment appearances by U.S. attorneys in actions in State courts or their participation in settlements or removals to U.S. district courts will be frequent. With all relevant factors in mind, we feel it fair to estimate that the additional cost to result from enactment of the proposed bill should not, when spread throughout the Government, exceed $100,000 annually.

The enactment of this amendment for the protection of the Government driver would afford the relief desired by him, for there would be then no point in his spending his own funds to take out liability insurance to protect him while operating motor vehicles in the scope of his employment for the Government. For the Government, enactment of this proposal would not only have the advantage of leading to an increase in morale among a large segment of its employees, but also would obviate the necessity of introduction in the Congress of private relief bills which necessarily, for their proper consideration, impel considerable expenditure of time and effort within the executive branch and on the part of Senators and Representatives and congressional committee staffs.

The enclosed draft bill consists of merely two sections, the first amending section 2679 of title 28 of the United States Code, which is a part of the Federal Tort Claims Act, and the second fixing the effective date at 6 months after enactment but preserving any rights or liabilities then existing.

Section 2679 would be amended by the addition thereto of four new subsections, designated in the draft bill as (b), (c), (d), and (e).

Subsection (b) makes action against the United States the sole remedy for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle in the scope of his Federal office or employment, and thus would exclude suits in State courts against such employee personally on the same claim. This provision is to be read in connection with the new subsection (d) authorizing removal of actions from State courts to U.S. district courts hereinafter discussed. It will be noted that the remedy against the United States is allowed only when the action arises from the operation of the vehicle by the employee while acting within the scope of his office or employment. Obviously, the Government would not be subject to any liability for acts of the employee resulting from unauthorized use by him of Government motor vehicles. The making of the remedy against the United States the exclusive remedy finds precedent in section 5 of the Suits in Admiralty Act, as amended (46 U.S.C. 745), which provides that the remedy by suit against the United States provided by the act with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States whose act or omission gave rise to the claim.

The new subsection (c) would require the Attorney General to defend any civil action or proceeding brought in any court against any employee of the United States for damage to property or for personal injury resulting from the operation by the employee of any motor vehicle while acting within the scope of his office or employment. The employee against whom action is brought would be required immediately to furnish copies of the pleadings and process to the U.S. attorney for the district embracing the place wherein the suit is brought, to the Attorney General, and to the head of the employee's agency.

Subsection (d) provides that any such suit against the employee driver commenced in a State court may be removed at any time before trial by the Attorney General to the district court of the United States for the district embracing the place where the suit is pending. This subsection is based upon, and would represent an extension of title 28, United States Code, section 1442, which provides for the removal from State courts to the U.S. district courts of actions commenced in State courts against certain Federal officers.

Subsection (e) would authorize the Attorney General to compromise or settle any claim asserted in a suit commenced in a State court in the manner provided in title 28, United States Code, section 2677, and with the same effect. Under the latter section the Attorney General, with the approval of the court, may arbitrate, compromise, or settle any claim against the United States under the Federal Tort Claims Act, after commencement of an action thereon in any Federal court.

As we have indicated heretofore, the proposed bill, being in the form of an amendment to the Federal Tort Claims Act, would make the suits and the other activities cognizable under the bill subject to the existing provisions of the Federal Tort Claims Act. For instance, the procedure provided by title 28, United States Code, section 2672 for administrative adjustments and settlements by the head of a Federal agency of claims for money damages of $1,000 or less against

the United States would continue to be applicable to claims within that limit for damages to property or for personal injury resulting from the operation by any employee of the United States of any motor vehicle while acting within the scope of his office or employment. So, too, any award by the head of a Federal agency pursuant to title 28, United States Code, section 2672, and any award, compromise, or settlement made by the Attorney General pursuant to title 28, United States Code, section 2677 or pursuant to the new subsection (e) of the proposed bill would be paid by the head of the Federal agency concerned out of appropriations available to such agency. The term "employee of the Government" used in the bill would be subject to the definition of that term contained in title 28, United States Code, section 2671, which includes not only officers or employees of any Federal agency but also members of the military or naval forces of the United States. However, under the exceptions to the coverage of the Federal Tort Claims Act set forth in title 28, United States Code, section 2680 there would be excluded from the operation of the proposed amendment any claims arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

For these reasons, GSA recommends early enactment of the proposed bill.

The Bureau of the Budget has advised that there is no objection to transmittal of this legislative proposal to the Congress.

Sincerely yours,

FRANKLIN FLOETE,
Administrator.

A BILL to amend title 28, entitled "Judiciary and Judicial Procedure" of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) When a remedy by suit against the United States is provided by this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, it shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government for any such damage or injury. The employee against whom such civil action or proceeding is brought shall immediately furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is

brought, to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court may be removed at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

The report of the Post Office Department on H.R. 389, H.R. 2273, and H.R. 3283, companion bills to H.R. 7577, is as follows:

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., March 17, 1959.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Department has noted and studied the bills, H.R. 389, H.R. 2273, and H.R. 3283 to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This Department urges favorable action by the Congress on this legislation at the earliest practicable date.

This Department has long realized that some protection against personal, financial responsibility should be accorded to employees who drive motor vehicles. In the enactment of the Federal Tort Claims Act, the Congress established procedures whereby citizens could proceed against the Government to recover damages for personal injury or death or to property resulting from the performance of the governmental function. Unfortunately, persons who have suffered personal or property damage are not required to avail themselves of the procedures provided by the Federal Tort Claims Act. On occasion, citizens, who claimed to have suffered damage or injury as a result of the operation of a motor vehicle used in the postal service, have instituted legal action against the employee individually in the State courts. Some cases have proceeded to judgment and the Department believes that in some instances the employees concerned have personally assumed the financial responsibility.

When the Department is advised of the institution of a suit against its employee drivers, it asks the Department of Justice to enter an appearance in the case. This is particularly true in those instances wherein the Department would have assumed financial responsibility if the injured person had availed himself of the provisions of the Tort Claims Act. However, if judgment should be rendered in the state court against the employee, there is no provision of law which permits the Department to assume the financial burden of that judgment.

The only alternative for the employee against whom a judgment has been rendered is to seek relief through the Congress in the form of a private relief bill. This is not a satisfactory procedure.

Many bills have been introduced in the Congress to provide for the procurement by the Government of liability insurance on behalf of its employees. In the opinion of this Department the cost of providing such insurance would be so great as to cause it to oppose enactment of such bills. The bills now before your committee will, we believe, solve the problem and will effectively relieve employees from financial responsibility in cases of this kind. The bills authorize the Attorney General to defend any civil action brought against any employee of the Government for damages arising out of the operation of motor vehicles in the course of employment. Provision is made for the removal of any civil action brought against an employee from State to Federal courts. The bills provide in effect that the Federal Tort Claims Act will be the exclusive remedy.

Enactment of this legislation will not materially increase the operation costs of the postal service.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

(Signed) ARTHUR E. SUMMERFIELD,
Postmaster General.

CHANGES IN EXISTING LAW

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

2679. Exclusiveness of remedy.

(*a*) The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive.

(*b*) *The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.*

(*c*) *The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service of knowledge or service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney*

for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.

○

Union Calendar No. 228

86TH CONGRESS
1ST SESSION

H. R. 7577

[Report No. 581]

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 1959

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

JUNE 26, 1959

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States

as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service ~~of knowledge or~~ *or knowledge of* service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the

United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

Amend the title so as to read: "A bill to amend title 28, entitled 'Judiciary and Judicial Procedure', of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes."

Union Calendar No. 228

86TH CONGRESS
1ST SESSION

H. R. 7577

[Report No. 581]

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

By Mr. CELLER

JUNE 4, 1959

Referred to the Committee on the Judiciary

JUNE 26, 1959

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued July 7, 1959
For actions of July 6, 1959
86th-1st, No. 112

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HIGHLIGHTS: House debated resolution to disapprove Reorganization Plan 1 on forest land authorities. House committee reported bill to modify and enact the Plan. Senate debated mutual security authorization bill. Senate subcommittee voted to report public works appropriation bill. Rep. Johnson, Wis., introduced and discussed bill to transfer administration of School Lunch Act to HEW.

HOUSE

1. FORESTRY; REORGANIZATION. Began and concluded debate on H. Res. 295, to disapprove Reorganization Plan No. 1 of 1959 which would transfer from Interior to this Department certain authorities for the exchange or sale of forest land and timber (pp. 11603-09). A vote on the measure was postponed until today, July 7 (p. 11609).

The Government Operations Committee reported, on July 3, with amendment H. R. 7681, to enact the provisions of Reorganization Plan No. 1 with amendments (H. Rept. 633) (p. 11614). Rep. Brown, O., protested against the Committee reporting the bill without public hearings, and stated that he had checked with Agriculture, Interior, and the Budget Bureau, and had been informed that they had not been requested by the Committee to testify on the bill (pp. 11604-5). Rep. Dawson, Ill., stated that H. R. 7681 will be brought up for consideration at a later date (p. 11609).

Passed as reported H. R. 3682, to permit the processing of certain applications under the Small Tracts Act for lands included in the Caribou and Targhee National Forests by the act of August 14, 1958. p. 11577

2. RESEARCH. Passed with amendments H. R. 6436, to amend the Federal Insecticide, Fungicide, and Rodenticide Act so as to include nematocides, plant regulators, defoliants, and desiccants. pp. 11576-7

3. WILDLIFE; SURPLUS GRAINS. Passed over, at the request of Rep. Pelly, H. R. 7631, to make permanent the act of July 3, 1956, authorizing Interior to requisition low-quality grain from CCC for use in the prevention of waterfowl depredations. p. 11577

4. PERSONNEL. Passed as reported H. R. 7577, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. p. 11578

Passed as reported H. R. 6059, to provide additional civilian positions in the Defense Department for scientific research and development. p. 11583

5. MONOPOLIES. Passed under suspension of the rules S. 726, to amend the Clayton Act so as to provide for the more expeditious enforcement of cease and desist orders issued under the act (pp. 11592-99). Rep. Celler stated that under the bill "Clayton Act cease and desist orders will become final and conclusive 60 days after issuance unless the respondent seeks judicial review. In the event that judicial review is sought, the cease and desist order will become final when affirmed by the court" (p. 11593). The "Daily Digest" states that the bill was passed with amendment (p. D569).

SENATE

6. MUTUAL SECURITY. Continued debate on S. 1451, the mutual security authorization bill for 1959. pp. 11539-47, 11548-65

7. PERSONNEL. Passed as reported H. R. 6134, to amend the Federal Employees Pay Act of 1945 to eliminate the authority to charge to certain current appropriations or allotments the gross amount of the salary earnings of Federal employees for certain pay periods occurring in part in previous fiscal years. p. 11529

Passed as reported S. 1495, to consolidate and revise the laws relating to employment of aliens in the several States and D. C. p. 11529

Passed over, at the request of Sen. Keating, S. 2162, to provide a health benefits program for Government employees. p. 11536

8. WATER; RECLAMATION. Passed over at the request of Sen. Keating S. 281, to authorize the Secretary of Interior to construct, operate, and maintain a re-regulating reservoir and other works at the Burns Creek site in the upper Snake River Valley, Idaho. pp. 11529-30

Received from the Illinois Legislature a resolution urging Congress to defend and preserve the water rights of the States and individuals. p. 11510

9. PUBLIC WORKS APPROPRIATION BILL FOR 1960. A subcommittee of the Appropriations Committee voted to report to the full committee this bill, H. R. 7509. p. D568

10. TRANSPORTATION. Passed as reported S. 1509, to amend the Interstate Commerce Act as amended to provide for "grandfather" rights (preference rights for certain carriers operating in the past) for certain motor carriers and freight forwarders in Alaska. pp. 11524-6

defoliant, or desiccant, if such use was made of such substance before January 1, 1958, clause (2)(B) of section 402(a) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 342), shall not apply until—

(1) March 5, 1960, or at the end of such additional period, not beyond March 5, 1961, as the Secretary of Health, Education, and Welfare may prescribe on the basis of a finding that such extension involves no undue risk to the public health and that conditions exist which necessitate the prescribing of such an additional period, or

(2) the date on which an order with respect to such use under section 408 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 348), becomes effective,

whichever date first occurs.

With the following committee amendment:

Strike out entire section 3(b), page 7, line 21, through page 8, line 14, and substitute therefor the following:

"(b) with respect to any particular commercial use of a nematocide, plant regulator, defoliant, or desiccant in or on a raw agricultural commodity, if such use was made of such substance before January 1, 1958, section 406(a) and clause (2) of section 402(a) of the Federal Food, Drug, and Cosmetic Act as in force prior to the date of enactment of the Act of July 22, 1954, 68 Stat. 511 (relating to pesticide chemicals on raw agricultural commodities) shall apply until—

"(1) March 5, 1960, or the end of such additional period, not beyond March 5, 1961, as the Secretary of Health, Education, and Welfare may prescribe on the basis of a finding that such extension involves no undue risk to the public health and that conditions exist which necessitate the prescribing of such an additional period, or

"(2) the date on which an order with respect to such use under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) becomes effective,

whichever date first occurs."

Mr. ALBERT. Mr. Speaker, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. ALBERT to the committee amendment: Page 9, line 1, strike out "was" and insert in lieu thereof "use."

The amendment to the committee amendment was agreed to.

The committee amendment as amended was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING PUBLIC LAW 85-818

The Clerk called the bill (H.R. 6500) to amend Public Law 85-818.

Mr. PELLY. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

CARIBOU AND TARGHEE NATIONAL FORESTS

The Clerk called the bill (H.R. 3682) to permit the processing of certain applications under the Small Tracts Act for lands included in the Caribou and Targhee National Forests.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4, subsection (a), of the Act of August 14, 1958 (72 Stat. 607, 608), is hereby amended by substituting a comma for the period at the end thereof and adding the following: "nor to prejudice the sale or lease by the Secretary of the Interior of lands for which application under the Act of June 1, 1938 (52 Stat. 609), as amended, was pending on March 28, 1957."

SEC. 2. Section 1 of this Act shall be effective as of the date of the Act which it amends.

SEC. 3. The intent of the Congress in enacting this Act is that the applications under the Act of June 1, 1938, which were pending in the Department of the Interior on March 28, 1957, shall be granted or rejected, in whole or in part, on the basis of the same standards which would have been applied in granting or rejecting them had the Act of August 14, 1958, not been enacted.

With the following committee amendments:

Page 1, lines 6 to 9, strike out the material in quotation marks and insert in lieu thereof the following: "nor to prejudice the sale or lease by the Secretary of the Interior under the Act of June 1, 1938 (52 Stat. 609), as amended, of lands for which applications under that Act were pending on March 28, 1957, and of one additional tract, not exceeding five acres, in either the south half of the northwest quarter of the northeast quarter of the northwest quarter, or the north half of the northeast quarter of the northwest quarter of the northwest quarter, both of section 17, township 2 south, range 46 east, Boise Meridian, if application for such additional tract be made not later than July 1, 1960, by an applicant whose application under R.S. 2455, as amended (43 U.S.C. 1171) for lands within the west half of the said section 17 was pending on March 28, 1957."

Page 2, lines 4 to 6, strike out the words: "under the Act of June 1, 1938, which were pending in the Department of the Interior on March 28, 1957," and insert in lieu thereof the words "identified in the amendment to section 4 of the Act of August 14, 1958, which is made by section 1 of this Act,".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LOUISIANA-VICKSBURG BRIDGE COMMISSION

The Clerk called the bill (H.R. 1074) to repeal the act of August 9, 1939, creating the Louisiana-Vicksburg Bridge Commission.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act creating the Louisiana-Vicksburg Bridge Commission; defining the authority, power, and duties of said commission; and authorizing said commission and its successors and assigns to purchase, maintain, and operate a bridge across the Mississippi River at or near Delta Point, Louisiana, and Vicksburg, Mississippi", approved August 9, 1939 (53 Stat. 1267), is hereby repealed.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ADMISSION OF VETERANS TO LOW RENT HOUSING

The Clerk called the bill (H.R. 4468) to amend the United States Housing Act of 1937 to extend the period during which families of veterans and servicemen may be admitted to public housing without regard to the general requirement that they be displacees or previous residents of substandard housing.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proviso in section 15(8)(b) of the United States Housing Act of 1937 is amended by striking out "March 1, 1959" and inserting in lieu thereof "March 1, 1964".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

USE OF SURPLUS GRAINS TO PREVENT WATERFOWL DEPREDATIONS

The Clerk called the bill (H.R. 7631) to amend the act of July 3, 1956 (70 Stat. 492), entitled "An act to authorize the Secretary of the Interior to cooperate with Federal and non-Federal agencies in the prevention of waterfowl depredations.

Mr. PELLY. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

INSURANCE COVERAGE UNDER TITLE IV OF THE NATIONAL HOUSING ACT

The Clerk called the bill (H.R. 7789) to amend paragraph (b) of section 401 of the National Housing Act, as amended.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (b) of section 401 of the National Housing Act, as amended (12 U.S.C. 1724(b)), is hereby amended by adding thereto at the end thereof the following new sentence: "Notwithstanding any other provision of law, two persons who are husband and wife shall have, with respect to accounts in an insured institution which are community property of such husband and wife and to the extent that such accounts are community property, not to exceed $10,000 of insurance with respect to such an account or accounts in the sole name of the husband, not to exceed $10,000 of insurance with respect to such an account or accounts in the sole name of the wife, and not to exceed $10,000 of insurance with respect to such an account or accounts

in the sole name of both: *Provided,* That in no event shall this sentence increase to an amount which is greater than the total of the amounts hereinbefore set forth in this sentence the aggregate of the insurance which such husband and wife may have under this title with respect to (1) any account or accounts in such institution in the sole name of either of them or in the sole names of both, and (2) any other account or accounts in such institution to the extent that such other account or accounts would, in the absence of this sentence, be required to be included in determining the amount of the individual insurance of such husband or of such wife under subsection (a) of section 405."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

UNIFORM POSTAL REQUIREMENTS RELATING TO DISCLOSURE OF AVERAGE NUMBERS OF COPIES OF CERTAIN PUBLICATIONS

The Clerk called the bill (H.R. 6830) to provide for uniformity of application of certain postal requirements with respect to disclosure of the average numbers of copies of publications sold or distributed to paid subscribers.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second paragraph of section 2 of the Act of August 24, 1912 (37 Stat. 553), as amended (39 U.S.C. 233), is amended to read as follows:

"The editor, publisher, business manager, or owner of a publication entered as second-class mail shall file with the Postmaster General and publish in the second issue thereafter of the publication to which it relates a sworn statement on forms furnished by the Postmaster General on or before the first day of October of each year setting forth—

"(1) the names and post office addresses of the editor and managing editor, publisher, business managers, and owners;

"(2) the name of the corporation and the stockholders thereof if the publication is owned by a corporation;

"(3) the names of known bondholders, mortgagees, or other security holders; and

"(4) the average number of copies of each issue of the publication sold or distributed through the mails or otherwise distributed to paid subscribers during the preceding 12 months.

The sworn statement need not include the names of persons owning less than 1 per centum of the total amount of stock, bonds, mortgages, or other securities. The Postmaster General shall deny the privilege of second-class mail to a publication which fails to comply with the provisions of this paragraph within ten days after notice by registered mail of the failure. This paragraph is not applicable to religious, fraternal, temperance, scientific, or similar publications.

"Editorial or other reading matter contained in publications entered as second-class mail and for the publication of which a valuable consideration is paid, accepted, or promised shall be marked plainly 'advertisement' by the publisher. Whoever, being an editor or publisher, prints in a publication entered as second-class mail editorial or other reading matter for which he has been paid or promised a valuable consideration, without plainly marking the same 'advertisement', shall be fined not more than $500."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VALIDATING AND CONFIRMING A CONTRACT ENTERED INTO BETWEEN THE UNITED STATES AND THE TOWN OF BRIDGEPORT, WASH.

The Clerk called the bill (H.R. 802) to validate and confirm a contract entered into between the United States and the town of Bridgeport, Wash.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the contract numbered DA-45-108-ENG-565, entered into on June 15, 1950, between the town of Bridgeport, Washington, and the Corps of Engineers, Department of the Army, on behalf of the United States, in which the United States agreed to pay for certain municipal services furnished by the town of Bridgeport, Washington, is hereby validated and confirmed as of June 15, 1950.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING TITLE 28, "JUDICIARY AND JUDICIAL PROCEDURE"

The Clerk called the bill (H.R. 7577) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal Employees arising out of their operation of motor vehicles in the scope of their employment.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

With the following committee amendment:

Page 2, line 14, strike out "of knowledge or" and insert in lieu thereof "or knowledge of."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended to read as follows: "A bill to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes."

A motion to reconsider was laid on the table.

PROVIDING FOR THE ENTRY OF CERTAIN RELATIVES OF U.S. CITIZENS AND LAWFULLY RESIDENT ALIENS

The Clerk called the bill (H.R. 5896) to provide for the entry of certain relatives of U.S. citizens and lawfully resident aliens.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(a)(2) of the Immigration and Nationality Act (66 Stat. 178) is hereby amended by striking out the period and adding the following: "or who are the unmarried sons or daughters of citizens of the United States".

SEC. 2. Section 203(a)(3) of the Immigration and Nationality Act (66 Stat. 178) is hereby amended by striking out the word "children" and substituting in lieu thereof "unmarried sons or daughters".

SEC. 3. The second sentence of paragraph 4 of section 203(a) of the Immigration and Nationality Act (66 Stat. 178-179) is hereby amended to read: "Qualified quota immigrants of each quota area who are the brothers or sisters, or the married sons or married

86TH CONGRESS
1ST SESSION

H. R. 7577

IN THE SENATE OF THE UNITED STATES

JULY 7, 1959

Read twice and referred to the Committee on the Judiciary

AN ACT

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States

as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the

United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

Passed the House of Representatives July 6, 1959.

Attest: RALPH R. ROBERTS,

Clerk.

86TH CONGRESS
1ST SESSION

H. R. 7577

AN ACT

To amend title 28, entitled 'Judiciary and Judicial Procedure', of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

JULY 7, 1959

Read twice and referred to the Committee on the Judiciary

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued May 26, 1960
For actions of May 25, 1960
86th-2d, No. 95

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HIGHLIGHTS: House passed public works appropriation bill.

SENATE

1. OLEOMARGARINE. Began debate on S. 2168, to amend the Navy ration statute so as to permit the serving of oleomargarine or margarine (pp. 10234, 10244-51, 10254-6, 10257-8, 10260-1). Pending at adjournment was a proposed amendment by Sen. Proxmire to provide that no oleomargarine or margarine shall be acquired for use by the Navy unless the Secretary of Agriculture certifies that no purchases of milk or dairy products have been or are intended to be made for supporting the price of milk or butterfat, and that acquisition of oleomargarine or margarine will not cause or contribute to a surplus of milk or dairy products, but provided that limited supplies of oleomargarine or margarine may be acquired for use in special operations where the use of butter would be impractical (pp. 10248-51, 10254-6, 10257-8, 10260-1). Agreed to a unanimous-consent request by Sen. Mansfield to vote on the Proxmire amendment at 12:30 p. m. today, May 26 (P. 10257).

2. PERSONNEL. The Judiciary Committee reported with amendments H. R. 7577, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment (S. Rept. 1425). p. 10224

3. AGRICULTURAL APPROPRIATION BILL, 1961. Sen. Dirksen called attention to language in this bill, H. R. 12117, authorizing additional borrowing authority of up to $40 million for Farmers Home Administration Loans, $60 million for rural telephone loans, and $60 million for rural electrification loans, stating that he understood "that under the language as now carried in the bill, if the Administrator feels it is necessary to spend the money and goes to the Bureau of the Budget and insistsupon having the additional money made available, the money must be made available." He stated that the "Budget Director has told me that if the demand is made it is virtually impossible for him to resist it, so the money may be expended." pp. 10231-2

4. ADMINISTRATIVE PRACTICE. Sen. Carroll submitted a report of the Judiciary Committee, "Administrative Practice and Procedure" (S. Rept. 1484). p. 10225

5. AIR POLLUTION. Sen. Kuchel urged enactment of legislation to permit stricter control of air pollution, and inserted several articles and letters discussing this matter. pp. 10238-40

6. WATER RESOURCES. Sen. Engle criticized the water resource development policies of the Administration, and inserted a table showing Federal expenditures for water resource development from 1950 through 1960. pp. 10252-3

7. WATERSHEDS. Received from the Budget Bureau plans for works of improvement on the following watersheds: p. 10223

Badger Creek and Mill-Picayune Creek, Iowa, Marsh Creek, Ky. and Tenn., Persimmon and Burnt Corn Creek, Miss., Tabo Creek, Mo., Fishing Creek, S. C., and Bad Axe, Wisc.; to Agriculture and Forestry Committee.

Upper Black Bear Creek, Okla., Reelfoot-Indian Creek, Tenn. and Ky., and Olmitos and Garcias Creeks, Tex.; to Public Works Committee.

8. LEGISLATIVE PROGRAM. Sen. Johnson announced that the following bills have been cleared by the policy committee for possible consideration this week or next week: S. 2759, the Ellender wheat bill; H. R. 7681, transfer of forest land authorities from Interior to USDA; S. 3044, multiple use management forest bill; S. 3140, commission on small town and rural county problems; S. 1617, adjustment of U. S. legislative jurisdiction over land in States; S. 1789, insure adequa of railroad freight car supply; S. 2977, representation of regional banks for cooperatives on board of directors of Central Bank for Cooperatives; S. 1235, research in meteorology; S. 3074, participation of U. S. in International Development Association; H. R. 9983, payments in lieu of taxes on Federal property; S. 2583, reimbursement of owners of land for moving expenses; H. R. 9322, continue suspension of duty on coarse wool; H. R. 9881, free importation of household effects into U. S. under Government orders; S. 1787, regulate misbranding, etc., of imitation hardwood products; and S. 2830, extension of Library Services Act. pp. 10258-60

HOUSE

9. PUBLIC WORKS APPROPRIATION BILL, 1961. Passed, 387 to 18, without amendment this bill, H.R. 12326 (pp. 10263-4). Previous to the bill's passage, rejected by a vote of 294 to 110, a motion by Rep. Goodell to recommit the bill to the Appropriations Committee with the instructions to delete funds for the Allegheny River Reservoir in Pa. and N. Y. pp. 10263-4

10. PERSONNEL. As reported (see Digest 93), H. R. 9883, the Federal pay bill, includes provisions as follows:

Calendar No. 1487

86TH CONGRESS
2d Session

SENATE

REPORT
No. 1425

DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES

MAY 25, 1960.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 7577]

The Committee on the Judiciary, to which was referred the bill (H.R. 7577) to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, having considered the same, reports favorably thereon, with amendments, and recommends that the bill, as amended, do pass.

AMENDMENTS

On page 2, line 23, strike out the word "Any", and insert in lieu thereof the words "With the consent of the plaintiff in any".

On page 2, line 24, strike out the word "shall", and insert in lieu thereof a comma and the words "such action or proceeding may".

PURPOSE OF AMENDMENTS

The purpose of the amendments is to provide that a civil action or proceeding commenced in a State court against an employee of the Government may not be removed to the district court of the United States without the consent of the plaintiff.

PURPOSE

The purpose of the bill is to provide a method for the assumption by the Federal Government of responsibility for claims and damages

against its employees arising from the operation by them of vehicles in the scope of their Government employment.

STATEMENT

The bill, H.R. 7577, as passed by the House of Representatives, is based on a legislative recommendation submitted to the Congress by the General Services Administration and strongly endorsed by the Post Office Department.

The legislative proposal was the most recent of several proposals designed to meet the problem of personal liability in suits for damages to which employees of the Federal Government are subject as a result of their operation of motor vehicles in the performance of official duties.

In submitting the legislative proposal, Franklin Floete, Administrator, General Services Administration, in a letter dated January 9, 1959, which is printed in full below, wrote that it was:

> the opinion of GSA, apparently shared by a number of other Government agencies with the representatives of which we have had informal discussions, that the Federal Government should, by one means or another, assume responsibility for claims and damages against its employees arising from the operation by them of vehicles in the scope of their Government employment.

The Administrator of General Services Administration commented further:

> A number of legislative proposals have been made to afford relief in the aforementioned situation. Some of the bills would provide for indemnification of drivers against liability arising out of their operation of motor vehicles in the performance of their official duties for the Government. In this type of legislation the Federal agency concerned would be required to pay the driver after his liability has been determined in court and he has satisfied the judgment of the court; to pay the person suffering the damage or injury if the judgment of the court is not satisfied; and to settle and pay claims not reduced to judgment. Provision is also made that costs of defending suits shall be borne by the United States, and, in addition, that the concerned Federal agency reimburse the employee driver for counsel retained by him. This type of legislation, however, presents the likelihood of considerable difficulties in administration and of heavy expense to the Government, and is open to the further criticism that, as to actions in State courts, judgments payable by the Government would usually be obtained by trial by jury, a procedure at variance with the requirement expressed in title 28, United States Code, section 2402, that actions against the United States under the Federal Tort Claims Act shall be tried by the court without a jury.
>
> An alternative solution of the problem of the personal liability of the employee-driver has been suggested in the form of legislation to provide for the procurement by the Government, at its expense, of insurance covering its civilian officers and employees against liability for damage to prop-

erty or for personal injury, including death, resulting from the use of motor vehicles by such officers or employees in the performance of official Government duties. Several bills which have been introduced include this insurance proposal, of which H.R. 2004 of the 85th Congress is an example.

However, after exploration, and discussion with representatives of interested agencies, we believe that the procurement by the Government of liability insurance would entail substantial and needless expense.

It is felt that the enclosed legislative proposal, which would attack the problem by way of amendment to the Federal Tort Claims Act, and which has been evolved after considerable discussion with representatives of other interested agencies, will afford the needed relief both with greater simplicity in administration and with far less expense to the Government than would be entailed by either the indemnification or the insurance bills * * *.

The Committee on the Judiciary of the House of Representatives conducted hearings on the subject and favorably reported an amended version of the bill which had been drafted and submitted to the Congress by the General Services Administration. In its favorable report, the Committee on the Judiciary of the House of Representatives made the following analysis of the bill as reported by the committee:

The provisions embodied in H.R. 7577 are based on the recommendations of an executive communication from the General Services Administration with some additional language included as the result of committee consideration of the matter. The communication of the General Services Administration sent to the Speaker of the House on January 9, 1959, included a suggested draft of a bill. H.R. 3283 was introduced pursuant to those recommendations, and a full hearing was held on H.R. 3283 and related bills on March 18 and 19, 1959. While H.R. 7577 is based on the recommendations of the same executive communication, it is felt that the changes and additions made in the latter bill clarify the new language which is to become part of section 2679 of title 28.

Section 2679 of title 28 of the United States Code would be amended by the addition of four new subsections. Subsection (b) is the basic provision of the bill, for it makes the remedy provided by section 1346(b) of title 28, relating to tort actions against the United States, the sole remedy for property damage, personal injury, or death resulting from the operation of a motor vehicle by a Government employee in the scope of his employment. This would exclude suits against employees in their individual capacities on the same claims. Therefore the new language would only apply when the employee is acting in his official capacity at the time of the incident giving rise to the claim, and does not provide the basis for any liability against the United States based on the unauthorized use of Government motor vehicles. The communication of the General Services Administration cites section 5 of the Suits in Admiralty Act (45 U.S.C. sec.

745) as a precedent for this provision. That act provides that the remedy by suit against the United States provided therein with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States whose act or omission gave rise to the claim. Similarly, the provisions of section 1498 of title 28 grants the owner of a patent the remedy of an action against the United States in place of his claim against a Government contractor for infringement of a patent. In providing a right of action against the United States, this statute has been construed to give the owner of the patent the exact equivalent of the right against the contractor. *Richmond Co.* v. *United States* (275 U.S. 331 1928)).

The provisions of H.R. 7577 differ from the original General Services Administration language in that specific reference is made to section 1346(b) concerning tort actions against the Government, and further reference is made to an employee's estate so that the remedy against the United States is made exclusive as to any action against the employee's estate as well as against the employee.

The specific purpose of protecting Government drivers against the hazard of being subjected to suits is implemented by subsections (c) and (d) set forth in the bill. These subsections provide procedures for handling cases which would fall within the categories actions of described in subsection (b) added by the bill. Subsection (c) provides that the interested agencies of the United States shall be given notice so that the employee can be defended by the Attorney General. In this connection it is provided that:

"The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government for any such damage or injury."

H.R. 7577 provides that the employee is to deliver, within the period fixed for such cases by the Attorney General, a copy of all process served upon him to his immediate superior or to the person designated to receive such papers. The person designated to receive those papers is to immediately furnish copies to the U.S. attorney, the Attorney General, and to the head of the employing agency. It is intended that this provision will have the effect of assuring that employees will be assisted in obtaining the aid contemplated in the bill.

Subsection (d) requires that any such action brought in a State court shall be removed to the U.S. district court for the district and division for the place in which the action is pending. In the U.S. district court the proceedings are to be deemed a tort action against the United States under title 28. After removal, if the U.S. district court should determine on a hearing on a motion to remand held before trial on the merits that there is no remedy within the meaning of subsection (b) against the United States, the case shall be remanded to the State court. This provides for a

prompt determination of the question of whether a remedy exists within the framework of the Federal tort claims provisions of title 28. The express recognition of a right to have a case remanded for further proceedings in the State court in the event of a determination that there is no remedy within the meaning of subsection (b) assures the continuity of the proceeding so that the applicable statute of limitations will not run and have the effect of barring a remedy against the individual driver where he is found not to have been entitled to the protection contemplated in this bill.

Subsection (c) grants the Attorney General the authority to settle cases in the same manner as he now does under section 2677 of title 28. The committee feels that this is a particularly important provision, for there may be cases in which the Attorney General will find it is to the advantage of the United States to settle the matter at the earlier stages of the proceeding. In those instances where the proceeding is commenced in a State court this settlement can be effected before removal to a U.S. district court. This makes possible the elimination of unnecessary delay and difficulty to everyone concerned, for if the case is a proper one for settlement it is only logical to provide authority for settlement without requiring removal to the Federal court.

Section 2 provides that the amendments provided for in the bill are to take effect 6 months after enactment. It is further expressly provided in that section that any rights or liabilities existing at that time are not to be affected.

The committee believes that the objectives sought by the bill are meritorious. It has been concerned, however, with the effect of the bill upon the rights of an individual plaintiff to maintain an action in a State court if he so desires. The committee has accordingly amended the bill to provide that a civil action or proceeding commenced in a State court against an employee of the Government may not be removed to the district court of the United States without the consent of the plaintiff.

The committee believes that the bill, as amended, may provide a method to achieve the desirable results which are sought by the proponents of the legislation while preserving the right of a plaintiff, if he so desires, to pursue an action against the individual driver in a State court to a final adjudication in that court.

Attached and made a part of this report are (1) a letter dated January 9, 1959, from the General Services Administration; (2) a letter dated October 16, 1957, from the Department of Justice in regard to S. 2684, a similar bill in the 85th Congress; (3) a letter dated April 2, 1959, from the National Aeronautics and Space Administration in regard to S. 101, a similar bill introduced in the Senate in the 86th Congress; (4) a letter dated March 17, 1959, from the Office of the Postmaster General in regard to S. 101, a similar bill introduced in the Senate in the 86th Congress; and (5) a letter dated April 17, 1959, from the Office of the Postmaster General in regard to S. 1464, a related bill introduced in the Senate in the 86th Congress.

I

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 9, 1959.

Hon. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is enclosed for your consideration a draft of a bill to amend title 28, entitled "Judiciary and Judicial Procedure" of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This legislative proposal is designed to solve the problem of the personal liability in suits for damages to which employees of the Federal Government are subject as a result of their operation of motor vehicles in the performance of official duties. The objective would be attained by an amendment of the Federal Tort Claims Act (28 U.S.C. ch. 171).

That act, which in effect gives general consent for tort suits against the Government itself brought in Federal courts, does not, in its present form, afford to the Government employee relief or protection against damages assessed against him personally when sued in a State court. While Government employees driving motor vehicles in the course of their official duties may protect themselves from liability by obtaining insurance, they must pay for it out of their own pockets.

The increasing use of motor transport by the Federal Government as a part of its day-to-day operations, coupled with the augmented costs of public liability and property damage insurance coverage available to Federal employees to protect themselves in the operation of vehicles on Government business, has imposed a heavy financial burden on the large number of such employees whose work entails their driving of motor vehicles on behalf of the Government and who, as a matter of prudent self-protection, purchase insurance to protect themselves from personal liability. Few of these employees are in the high or even medium pay grades. It is not, therefore, surprising that they complain because of their assuming what they regard as an inequitable burden, and one of which they feel that the Government, as their employer, should relieve them. It is our understanding that drivers of fleet trucks and other vehicles for private concerns are not ordinarily required to provide their own insurance protection.

It is, accordingly, the opinion of GSA, apparently shared by a number of other Government agencies with the representatives of which we have had informal discussions, that the Federal Government should, by one means or another, assume responsibility for claims and damages against its employees arising from the operation by them of vehicles in the scope of their Government employment.

A number of legislative proposals have been made to afford relief in the aforementioned situation. Some of the bills would provide for indemnification of drivers against liability arising out of their operation of motor vehicles in the performance of their official duties for the Government. In this type of legislation the Federal agency concerned would be required to pay the driver after his liability has been determined in court and he has satisfied the judgment of the court; to pay the person suffering the damage or injury if the judg-

ment of the court is not satisfied; and to settle and pay claims not reduced to judgment. Provision is also made that costs of defending suits shall be borne by the United States, and, in addition, that the concerned Federal agency reimburse the employee driver for counsel retained by him. This type of legislation, however, presents the likelihood of considerable difficulties in administration and of heavy expense to the Government, and is open to the further criticism that, as to actions in State courts, judgments payable by the Government would usually be obtained by trial by jury, a procedure at variance with the requirement expressed in title 28, United States Code, section 2402, that actions against the United States under the Federal Tort Claims Act shall be tried by the court without a jury.

An alternative solution of the problem of the personal liability of the employee driver has been suggested in the form of legislation to provide for the procurement by the Government, at its expense, of insurance covering its civilian officers and employees against liability for damage to property or for personal injury, including death, resulting from the use of motor vehicles by such officers or employees in the performance of official Government duties. Several bills which have been introduced include this insurance proposal, of which H.R. 2004 of the 85th Congress is an example.

However, after exploration, and discussion with representatives of interested agencies, we believe that the procurement by the Government of liability insurance would entail substantial and needless expense.

It is felt that the enclosed legislative proposal, which would attack the problem by way of amendment to the Federal Tort Claims Act, and which has been evolved after considerable discussion with representatives of other interested agencies, will afford the needed relief both with greater simplicity in administration and with far less expense to the Government than would be entailed by either the indemnification or the insurance bills. By this amendment the handling of the suits against the employee driver personally would be fitted into the existing mechanism afforded by the Federal Tort Claims Act, and it is hard to conceive that the yearly amounts which would be paid out by the Government under the measure, including costs of administration, would ever amount to more than an insignificant fraction of the disbursements which would be made annually by the Government for premiums to protect its employee drivers against liability for property damage and personal injury under the insurance proposal.

In the first place, the enactment of the Federal Tort Claims Act amendment would greatly reduce the amounts which the Government now pays out under private bills from time to time enacted for the relief of individual Government drivers who have suffered liability. Another point for consideration is that the Department of Justice, having in mind the amenability of the United States to suits for acts of its employees under the Federal Tort Claims Act, has for some time, for the protection of the Government, been following the general policy of affording counsel and representation to Government employees who are sued in their personal capacity as a result of the performance of their official duties. Thus the provision of the enclosed bill for defense by the Attorney General of actions against driver employees should not impose any great new burden on that Department in terms of either administration or expense. Further-

more, experience shows that comparatively few suits are brought against employee drivers in their personal capacities in State courts. The plaintiff normally sues the United States under the Federal Tort Claims Act and thus enjoys the assurance of solvency in the prospective judgment debtor. However, such suits against the employees driver personally are, from time to time, instituted, and it is to protect himself against the risk of liability being established against him in such a suit that the driver, as a matter of prudence, purchases liability insurance out of his own pocket. Thus it is not anticipated that under the amendment appearances by U.S. attorneys in actions in State courts or their participation in settlements or removals to U.S. district courts will be frequent. With all relevant factors in mine, we feel it fair to estimate that the additional cost to result from enactment of the proposed bill should not, when spread throughout the Government, exceed $100,000 annually.

The enactment of this amendment for the protection of the Government driver would afford the relief desired by him, for there would be then no point in his spending his own funds to take out liability insurance to protect him while operating motor vehicles in the scope of his employment for the Government. For the Government, enactment of this proposal would not only have the advantage of leading to an increase in morale among a large segment of its employees, but also would obviate the necessity of introduction in the Congress of private relief bills which necessarily, for their proper consideration, impel considerable expenditure of time and effort within the executive branch and on the part of Senators and Representatives and congressional committee staffs.

The enclosed draft bill consists of merely two sections, the first amending section 2679 of title 28 of the United States Code, which is a part of the Federal Tort Claims Act, and the second fixing the effective date at 6 months after enactment but preserving any rights or liabilities then existing.

Section 2679 would be amended by the addition thereto of four new subsections, designated in the draft bill as (b), (c), (d), and (e).

Subsection (b) makes action against the United States the sole remedy for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle in the scope of his Federal office or employment, and thus would exclude suits in State courts against such employee personally on the same claim. This provision is to be read in connection with the new subsection (d) authorizing removal of actions from State courts to U.S. district courts hereinafter discussed. It will be noted that the remedy against the United States is allowed only when the action arises from the operation of the vehicle by the employee while acting within the scope of his office or employment. Obviously, the Government would not be subject to any liability for acts of the employee resulting from unauthorized use by him of Government motor vehicles. The making of the remedy against the United States the exclusive remedy finds precedent in section 5 of the Suits in Admiralty Act, as amended (46 U.S.C. 745), which provides that the remedy by suit against the United States provided by the act with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States whose act or omission gave rise to the claim.

The new subsection (c) would require the Attorney General to defend any civil action or proceeding brought in any court against any employee of the United States for damage to property or for personal injury resulting from the operation by the employee of any motor vehicle while acting within the scope of his office or employment. The employee against whom action is brought would be required immediately to furnish copies of the pleadings and process to the U.S. attorney for the district embracing the place wherein the suit is brought, to the Attorney General, and to the head of the employee's agency.

Subsection (d) provides that any such suit against the employee driver commenced in a State court may be removed at any time before trial by the Attorney General to the district court of the United States for the district embracing the place where the suit is pending. This subsection is based upon, and would represent an extension of title 28, United States Code, section 1442, which provides for the removal from State courts to the U.S. district courts of actions commenced in State courts against certain Federal officers.

Subsection (e) would authorize the Attorney General to compromise or settle any claim asserted in a suit commenced in a State court in the manner provided in title 28, United States Code, section 2677, and with the same effect. Under the latter section the Attorney General, with the approval of the court, may arbitrate, compromise, or settle any claim against the United States under the Federal Tort Claims Act, after commencement of an action thereon in any Federal court.

As we have indicated heretofore, the proposed bill, being in the form of an amendment to the Federal Tort Claims Act, would make the suits and the other activities cognizable under the bill subject to the existing provisions of the Federal Tort Claims Act. For instance, the procedure provided by title 28, United States Code, section 2672 for administrative adjustments and settlements by the head of a Federal agency of claims for money damages of $1,000 or less against the United States would continue to be applicable to claims within that limit for damages to property or for personal injury resulting from the operation by any employee of the United States of any motor vehicle while acting within the scope of his office or employment. So, too, any award by the head of a Federal agency pursuant to title 28, United States Code, section 2672, and any award, compromise, or settlement made by the Attorney General pursuant to title 28, United States Code, section 2677 or pursuant to the new subsection (e) of the proposed bill would be paid by the head of the Federal agency concerned out of appropriations available to such agency. The term "employee of the Government" used in the bill would be subject to the definition of that term contained in title 28, United States Code, section 2671, which includes not only officers or employees of any Federal agency but also members of the military or naval forces of the United States. However, under the exceptions to the coverage of the Federal Tort Claims Act set forth in title 28, United States Code, section 2680 there would be excluded from the operation of the proposed amendment any claims arising out of the combatant activities of the military or naval forces, or the Coast Guard, during during time of war.

For these reasons, GSA recommends early enactment of the proposed bill.

The Bureau of the Budget has advised that there is no objection to transmittal of this legislative proposal to the Congress.

Sincerely yours,

FRANKLIN FLOETE, *Administrator.*

[Enclosure]

A BILL To amend title 28, entitled "Judiciary and Judicial Procedure" of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) When a remedy by suit against the United States is provided by this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, it shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government for any such damage or injury. The employee against whom such civil action or proceeding is brought shall immediately furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court may be removed at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

II

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., October 16, 1957.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 2684) to amend

title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Under existing law, the remedy by suit against the United States for damage or injury caused by the negligent or wrongful act or omission of an employee of the Government, while acting within the scope of his office or employment, is exclusive of the right to sue the employee himself in only those cases where suit may be brought under the Suits in Admiralty and Public Vessels Acts (46 U.S.C. 741–749, 781–789). Those acts, by title 46 United States Code, section 745, prohibit suit against the involved individual employee and make suit against the United States the exclusive remedy. At present, there is no corresponding provision in the Tort Claims Act. Where jurisdiction is conferred by that act, plaintiffs may sue the Government employee instead of or in addition to the United States. This unequal treatment of nonmaritime employees has resulted in vigorous protests and insistence that the United States pay the premium for liability insurance on motor-vehicle drivers unless they are to be given the same protection as maritime employees.

The purpose of the bill is to change the law by extending the rule now applicable in maritime cases to cases within the coverage of the Federal Tort Claims Act so far as they arise out of the operation of motor vehicles by Federal employees in the scope of their employment. This is accomplished by subparagraph (a) of the proposed amendment to title 28, United States Code, section 2679.

The purpose of the remaining subparagraphs of the amendment is to provide a procedure for the handling of such suits against individual employees if brought despite the prohibition of subparagraph (a) against such suits. Thus subparagraph (b) of the proposed amendment limits the exclusiveness to those cases where a "remedy by suit against the United States is provided by this title," referring to the Tort Claims Act. Subparagraph (c) limits the Attorney General's duty to defend to those suits brought against Federal employees "for any such damage or injury," thus confining it to cases involving the employees' operation of vehicles in the scope of his employment in circumstances where suit could be brought against the United States under the Tort Claims Act. Subparagraphs (d) and (e) authorize the Attorney General to remove this limited type of suits from State to Federal courts and to compromise or settle such suits in the same manner as suits against the United States under the Tort Claims Act are compromised.

The provisions of the bill are substantially the same as a proposal sponsored by the General Services Administration. The letter submitting this legislation to the President of the Senate includes a summary and statement of purpose and need for the legislation. The Department of Justice together with the Department of Defense and the General Services Administration contributed staff time to a study which ultimately resulted in the presentation of this proposal. This legislation is believed to be desirable.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

William P. Rogers,
Deputy Attorney General.

III

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., April 2, 1959.

Hon. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary,
Senate Office Building, Washington, D.C.

DEAR MR. EASTLAND: Your letter of March 4, 1959, requested the comments of the National Aeronautics and Space Administration on S. 101, which is a bill to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

The essential feature of the bill is to provide that if a party has a remedy by suit against the United States for damage or injury which arises out of the operation of a motor vehicle by a Government employee while acting within the scope of his employment, then the remedy for such cause of action shall be exclusive against the United States.

Since employees of the National Aeronautics and Space Administration frequently find it necessary to operate motor vehicles in the performance of their official duties, we recommend early enactment of legislation to overcome the risk of personal liability.

Sincerely yours,

JAMES P. GLEASON,
Assistant Administrator for Congressional Relations.

IV

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., March 17, 1959.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Department has noted and studied the bill S. 101 to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This Department urges favorable action by the Congress on this legislation at the earliest practicable date.

This Department has long realized that some protection against personal, financial responsibility should be accorded to employees who drive motor vehicles. In the enactment of the Federal Tort Claims Act, the Congress established procedures whereby citizens could proceed against the Government to recover damages for personal injury or death or to property resulting from the performance of the governmental function. Unfortunately, persons who have suffered personal or property damage are not required to avail themselves of the procedures provided by the Federal Tort Claims Act. On occasion, citizens, who claimed to have suffered damage or injury as a result of the operation of a motor vehicle used in the postal service, have instituted legal action against the employee individually in the State courts. Some cases have proceeded to judgment and the

Department believes that in some instances the employees concerned have personally assumed the financial responsibility.

When the Department is advised of the institution of a suit against its employee drivers, it asks the Department of Justice to enter an appearance in the case. This is particularly true in those instances wherein the Department would have assumed financial responsibility if the injured person had availed himself of the provisions of the Tort Claims Act. However, if judgment should be rendered in the State court against the employee, there is no provision of law which permits the Department to assume the financial burden of that judgment.

The only alternative for the employee against whom a judgment has been rendered is to seek relief through the Congress in the form of a private relief bill. This is not a satisfactory procedure.

Many bills have been introduced in the Congress to provide for the procurement by the Government of liability insurance on behalf of its employees. In the opinion of this Department the cost of providing such insurance would be so great as to cause it to oppose enactment of such bills. The bills now before your committee will, we believe, solve the problem and will effectively relieve employees from financial responsibility in cases of this kind. The bills authorize the Attorney General to defend any civil action brought against any employee of the Government for damages arising out of the operation of motor vehicles in the course of employment. Provision is made for the removal of any civil action brought against an employee from State to Federal courts. The bills provide in effect that the Federal Tort Claims Act will be the exclusive remedy.

Enactment of this legislation will not materially increase the operation costs of the postal service.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ARTHUR E. SUMMERFIELD,
Postmaster General.

V

OFFICE OF THE POSTMASTER GENERAL,
Washington D.C., April 17, 1959.

Hon. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on S. 1464, a bill to indemnify drivers of motor vehicles of the postal service against liability for damages arising out of the operation of such vehicles in the performance of official duties.

In brief, this measure would relieve postal operators of motor vehicles of liability for damage to the motor vehicle or for personal injury or property damage resulting from the operation of the vehicle. This would be accomplished by requiring the Postmaster General to pay such damages, where there is a legal liability on the part of the postal operator; settle and pay any claim not reduced to judgment; pay costs incurred by the postal operator in defending any civil action brought against him, where the Attorney General is unable to defend in such action. In short, the measure would have the effect

of nullifying the Federal Tort Claims Procedure (28 U.S.C. 2671 et seq.).

For the reasons set forth in this Department's report on S. 101 to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes this Department recommends the enactment of that measure in lieu of S. 1464.

In advising this Department with respect to its report on an identical bill, H.R. 62, the Bureau of the Budget advised that there would be no objection to the submission of that report to Congress.

Sincerely yours,

E. O. Sessions,
Acting Postmaster General.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Section 2679 of Title 28, United States Code

§ 2679. Exclusiveness of remedy.

(*a*) The authority of any Federal agency to sue and be sued in its own name shall not be construed to authorize suits against such Federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive. (June 25, 1948, ch. 646, § 1, 62 Stat. 984.)

(*b*) *The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.*

(*c*) *The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.*

(*d*) *With the consent of the plaintiff in any such civil action or proceeding commenced in a State court, such action or proceeding may be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references*

thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.

○

Calendar No. 1487

86TH CONGRESS
2D SESSION

H. R. 7577

[Report No. 1425]

IN THE SENATE OF THE UNITED STATES

JULY 7, 1959

Read twice and referred to the Committee on the Judiciary

MAY 25, 1960

Reported by Mr. JOHNSTON of South Carolina, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) ~~Any~~ *With the consent of the plaintiff in any* such civil action or proceeding commenced in a State court ~~shall~~

, *such action or proceeding may* be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

Passed the House of Representatives July 6, 1959.

Attest: RALPH R. ROBERTS,

Clerk.

Calendar No. 1487

86TH CONGRESS
2D SESSION

H. R. 7577

[Report No. 1425]

AN ACT

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

JULY 7, 1959
Read twice and referred to the Committee on the Judiciary

MAY 25, 1960
Reported with amendments

Digest of CONGRESSIONAL PROCEEDINGS
OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued June 3, 1960
For actions of June 2, 1960
86th-2d, No. 100

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HIGHLIGHTS: House Rules Committee cleared Mexican farm labor bill. House passed: Multiple use forestry management bill; bill to revise Farmers Home Administration laws. House appointed conferees on industrial uses research bill.

SENATE

1. FOREIGN AID. Passed with an amendment S. 3074, to provide for participation of the United States in the International Development Association (pp. 10829-44, 10845-50). Sen. Fulbright stated that it is contemplated that the United States would use a portion of the foreign currencies accumulating under title I of Public Law 480 in supporting the work of the Association (p. 10830).

2. PERSONNEL. Passed as reported H. R. 7577, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. pp. 10802-3

3. RECLAMATION. Agreed to the amendments of the House to S. 1892, to authorize the Secretary of the Interior to construct and operate the Norman, Okla., reclamation project. This bill will now be sent to the President. pp. 10794-5

4. POSTAL SERVICE. Passed without amendment H. R. 10996, to authorize the use of certified mail for the transmission or service of matter required by certain Federal laws to be transmitted or served by registered mail. This bill will now be sent to the President. p. 10810

5. IMPORT DUTIES. Passed as reported H. R. 11748, to provide a tariff rate of 1 1/10 cents per pound on the importation of fresh or frozen coconut meat, and to provide for the free importation of tight barrelheads of softwood. pp. 10810-1

6. ELECTRIFICATION. Sen. Randolph commended the United Utilities of West Virginia for installing a rural telephone system with the help of an REA loan, stating that it "is a dramatic example of how private enterprise and the Federal Government can work together for the betterment of our society." p. 10796

7. WATER RESOURCES; RECLAMATION. Sen. Anderson inserted a recent address by Commissioner of Reclamation, Floyd E. Dominy, discussing "reclamation's future program" and pointing up the problems involved in furnishing adequate water for the growing population. pp. 10795-6

8. CULTURAL EXCHANGES; TRADE FAIRS. Both Houses received from the President the seventh semiannual report of operations under the International Cultural Exchange and Trade Fair Participation Act of 1958. pp. 10787, 10879

9. PATENTS. Sen. Javits inserted a Central New York Patent Law Association resolution opposing enactment of S. 3156, defining rights under inventions arising from research conducted under projects financed by the U. S. p. 10788

10. FISH AND WILDLIFE. Passed over, at the request of Sen. Keating, H. R. 2565, to promote effectual planning, development, maintenance, and coordination of wildlife, fish and game conservation and rehabilitation on military reservations. p. 10811

11. FOREIGN TRAVEL. Passed over, at the request of Sen. Prouty, S. 3102, to provide for the establishment of an Office of International Travel and Tourism and a Travel Advisory Board. p. 10811

12. WATERSHEDS. Passed over, at the request of Sen. Engle, S. 3383, to amend Sec. 4 of the Watershed Protection and Flood Prevention Act so as to authorize Federal assistance on watershed projects prior to acquisition of land, easements, or rights-of-way needed in connection with works of improvement. p. 10811

13. POSTAL RATES; INFORMATION. Passed over, at the request of Sen. Engle, H. R. 4595, to clarify and make uniform certain provisions of law relating to special postage rates for educational, cultural, and library materials. p. 10811

14. TRANSPORTATION. Passed over, at the request of Sen. Engle, H. R. 10840, to extend the period during which ocean steamship lines may utilize the two-rate system of charging for transportation service. p. 10811

15. LEGISLATIVE PROGRAM. Sen. Johnson announced that the following bills will be considered today, June 3: S. 3044, to authorize the national forests to be managed under principles of multiple use and sustained yield; H. R. 7681, transfer of certain authorities for the exchange or sale of forest land and timber from Interior to USDA; and S. 2583, to authorize reimbursement of owners of land acquired by U. S. for their moving expenses. p. 10851

Under the order of yesterday, the call of the calendar is now in order.

Mr. KEATING. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ENGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. Under the order of yesterday, the call of the calendar, beginning with order No. 1483, S. 1957, is now in order.

BILL PASSED OVER

The bill (S. 1957) to encourage the discovery, development, and production of domestic tin was announced as first in order.

Mr. ENGLE. Mr. President, over by request.

The PRESIDING OFFICER. The bill will be passed over.

JOHN A. SKENANDORE

The bill (S. 285) for the relief of John A. Skenandore was announced as next in order.

NECESSITY FOR PUBLIC ACCOUNTING BY CONGRESSIONAL AGENCIES

Mr. CASE of New Jersey. Mr. President, reserving the right to object, and I shall not object, I ask unanimous consent that I may proceed for about 4 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from New Jersey is recognized for 4 minutes.

Mr. CASE of New Jersey. Mr. President, there is an old saying that "People who live in glass houses shouldn't throw stones."

I suggest, Mr. President, that the time is long overdue for the Congress, which spends a considerable part of its time investigating and calling to account agencies of the executive branch, to put its own house in order.

I refer, of course, to recent press accounts of congressional expense accounts. They are only the latest in a series of "revelations" with which the public is periodically regaled, to the derogation of the dignity and standing of the Congress as a whole.

Mr. President, there is no reason why the Congress should suffer this situation to continue. The remedy is a simple one. Let us adopt for ourselves the same principle we uphold so manfully in other areas of Government—that of full and timely disclosure of the facts to the public.

Last year, the late distinguished Senator Neuberger, of Oregon, joined with me in introducing a bill (S. 1332) which would do this very thing. This bill is virtually identical to one I introduced in the previous Congress. S. 1332 would require our committees not only to file, but also to publish in the CONGRESSIONAL RECORD, itemized expense accounts for all travel expenses and related expenses by committee members or committee staffs. This would include the use of counterpart funds.

We are faced with an unhappy situation about which we can no longer afford to be complacent. All of us know of the excellent and conscientious work done by committees, and the legitimate purposes which require official travel. The attitude of the public has, however, grown increasingly cynical to the point where any and all travel by a congressional committee, however conscientious its members or worthy its purpose, tends automatically to be dismissed as a "junket." We have contributed to that attitude by permitting committee expenditures to be shrouded in secrecy and reported in such general and incomplete terms as to be virtually meaningless. Such an atmosphere of mystery cannot help but breed suspicion and contempt on the part of the public.

Mr. President, our bill also strikes at the heart of another problem which has been highlighted in recent congressional hearings.

In the course of such hearings, a novel, and to me shocking, doctrine of administrative procedure was espoused by several witnesses. It is that there is nothing wrong in ex parte discussions of pending cases with members of regulatory agencies. True, some witnesses distinguished between private appeals to expedite proceedings and discussions of the merits of a particular case. At least one, however, admitted they could not always be separated.

Here again, Mr. President, our bill provides the answer, I believe. Again the answer is disclosure; and our bill would require that all communications in regard to a pending case, whether by letter or by word of mouth, to a member or members of a regulatory or semi-judicial agency, be made part of the public record of the case.

I venture to assert, Mr. President, that every Member of this body has at some time or another been importuned to intercede on behalf of a constituent interested in a case pending before some agency. We could haggle for days over the line between a proper and an improper approach to the agency. The short and simple answer, I believe, is to assure that any ex parte communication, whether from a Senator or from anyone else, shall become known immediately to other interested parties and shall be available to the public generally.

S. 1332 contains other provisions also based on this principle of disclosure. There is not time to discuss them now. Rather, my plea is for action now in the interest of the Congress as a whole, as well as in the interest of the public. A sleuthing job by the press should not be required, in order to find out how a committee of Congress spends the public funds allotted to it. The inevitable result of burying such facts in obscurity is a reflection on every Member and on the body as a whole, and the public confidence in the whole workings of our political system is damaged far beyond what the facts actually warrant.

Mr. JAVITS. Mr. President, I should like to compliment the Senator from New Jersey for his remarks.

I am well aware of the provisions of his bill. He is among the number of Senators who have introduced code of ethics bills. Included among them was our dear, departed colleague, the distinguished Senator Neuberger. Those bills call for equalizing the responsibility of Members of Congress with that of the members of the executive branch of the Government.

I am proud to state that I have joined my colleague in introducing a code of ethics bill which carries out the same principle—not necessarily in exactly the same way as does the bill of the Senator from New Jersey, but with the same general purposes.

It may be said that the recent disclosures relate only to Members of the House of Representatives. However, it is well known that Senate committees also spend money, both in dollars and in counterpart funds. Furthermore, many of us hesitate to join in taking committee trips, because someone might object to a lack of accounting. We would much rather have such matters made public.

Mr. President, this is a problem not only for the other body, but also for the Senate itself. However, it seems that we always wait for some incident to break over our heads—such as the hotly debated matter of publishing the names of our employees. The Senator from Tennessee and a number of other outstanding Senators took the lead in the fight to have those names published.

So, Mr. President, I hope very much that the splendid initiative the Senator from New Jersey has taken will prompt our committee to report a code of ethics bill—whether his bill or mine or that introduced by my colleague the Senator from New York [Mr. KEATING] or that introduced by any other Member of the Senate, or a combination of them—so that we in the Senate will at least do our duty and will take action in this respect.

Mr. CASE of New Jersey. I thank the Senator from New York. I appreciate his support.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from New Jersey yield to me?

The PRESIDING OFFICER (Mr. BYRD of West Virginia in the chair). Does the Senator from New Jersey yield to the Senator from Delaware?

Mr. CASE of New Jersey. I yield.

Mr. WILLIAMS of Delaware. I wish to join the Senator from New Jersey in urging full and open disclosure of the expenditures made by Members of Congress in connection with committee trips or other official business.

As the Senator from New York [Mr. JAVITS] has said, we at this end of the Capitol cannot avoid our responsibility. On at least three occasions the Senate has adopted to various House bills amendments of the sort to which the Senator from New Jersey has referred; and those amendments have gone to the House of Representatives. But unfortunately the House has not accepted them.

Mr. CASE of New Jersey. I should like to point out that the Senator from Delaware is the author of those amendments, and he is to be commended highly for what he has done. I should also like to point out that in each instance I supported him.

Mr. WILLIAMS of Delaware. That is correct.

Approximately 30 days ago such an amendment was adopted unanimously by the Senate on a yea-and-nay vote rather than a voice vote, and that amendment called for full public disclosure of all such expenditures whether made in dollars or made in counterpart funds.

In the light of recent disclosures certainly we have no alternative but to take prompt action on this proposed legislation prior to the adjournment of this session of Congress.

The amendments to which I have referred, which orginally were bills introduced by myself and by other Members of the Senate, will certainly be brought up again during this session. I believe it matters little whose amendment is adopted, but it is imperative that we deal adequately with this subject before the end of the session. Such expenditures—whether in dollars or in foreign currencies—must be accounted for; we must insist that that be done. The American people have a right to have that information.

Mr. CASE of New Jersey. I thank the Senator from Delaware.

Mr. RANDOLPH. Mr. President, will the Senator from New Jersey yield to me?

Mr. CASE of New Jersey. I am glad to yield to the distinguished Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the legislation proposed by the able Senator from New Jersey is definitely in the public interest. The public not only is concerned about this situation, but also has a right to have the information.

It will be a privilege to aid in the passage of such a measure.

Mr. CASE of New Jersey. I am most grateful to my colleague, and I appreciate very much his words of support.

Mr. KEATING. Mr. President, will the Senator from New Jersey yield to me?

Mr. CASE of New Jersey. I yield to the Senator from New York.

Mr. KEATING. Mr. President, I wish to commend the Senator from New Jersey for bringing this matter to our attention, in his usual timely fashion, by means of the eloquent remarks he has made today about the need for the enactment of legislation in this field.

As the distinguished Senator from Delaware [Mr. WILLIAMS] has pointed out, the Senate adopted unanimously, on a yea-and-nay vote, an amendment to give effect to much of what the Senator from New Jersey has advocated. However, the difficulty is—and I hope the Senator from Delaware will correct me if I am in error about this matter—that although we have taken such action before, the Senate approved language has been stricken out in conference, and thus our labors have gone for naught.

As has been pointed out, there are a number of conflict of interest bills pending before the Committee on Rules and Administration and the Committee on the Judiciary of which I have the honor to be a member, and the Committee on Labor and Public Welfare. I have previously urged that there be some hearings and action on these measures. In the light of developments which have taken place in the other body, I believe it is more obvious than ever that attention must be given to this subject.

The PRESIDING OFFICER. The time of the Senator from New Jersey has expired.

Mr. KEATING. Mr. President, reserving the right to object, and I shall not object—and I shall not take 5 minutes, but shall take only 1 minute to complete what I have been saying—one of the bills sponsored by the senior Senator from New York [Mr. JAVITS] and myself, is the result of a long and thorough study by the Association of the Bar of the city of New York under a grant by the Ford Foundation. It is a very carefully thought out bill. It is not complete, and it needs amplification, because it leaves undealt with the problem of ethics governing members of the legislative branch, who should be, in my judgment, subject to the same requirements and regulations that apply to officers and employees of the executive branch.

Mr. JAVITS. Mr. President, will the Senator from New York yield at that point for an inquiry?

Mr. KEATING. Yes.

Mr. JAVITS. I have, myself, proposed a bill dealing with both the legislative and the executive. That is what I was referring to.

Mr. KEATING. We have cosponsored several bills on this subject. In the consideration of the problems in this field, however, I believe the fine job that was done by the association of the bar ought to be given full consideration. I am sure that is the view of the senior Senator from New York, because the association made some very constructive recommendations.

I hope we can get some action at this session in this body. We are not responsible, of course, for what happens in the other body. I am sure they will deal with the problem there in a forthright manner. But we certainly have our own responsibility to deal with it here without further delay.

Again I want to say how much we are indebted to the leadership of the Senator from New Jersey [Mr. CASE] in this important field.

Mr. CASE of New Jersey. Mr. President, will the Senator yield?

Mr. KEATING. I yield.

Mr. CASE of New Jersey. I wish to thank the Senator from New York. I have been well aware of his interest, as well as that of his colleague, in this matter, and of our mutual interest in the work the Bar Association of the City of New York has done in this field, as well as the work we have done here.

JOHN A. SKENANDORE

The bill (S. 285) for the relief of John A. Skenandore, was announced as next in order.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the bill was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John A. Skenandore, the sum of $5,000, in full satisfaction of his claim against the United States for compensation for permanent personal injuries which he sustained (loss of his hand) while he was working in a United States Government laundry at the Oneida Indian School, Oneida, Wisconsin: *Provided,* That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

BILL PASSED OVER

The bill (S. 1321) to authorize the Attorney General to consent on behalf of the Library of Congress Trust Fund Board to a modification of a trust instrument executed by James B. Wilbur was announced as next in order.

Mr. ENGLE. Over, by request.

The PRESIDING OFFICER. The bill will be passed over.

GRACE L. PATTON

The bill (S. 1600) for the relief of Grace L. Patton was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Grace L. Patton, the sum of $3,595.16, in full satisfaction of her claim against the United States for reimbursement (1) for expenses incurred as a result of wrongful removal from her position as a civilian employee of the Department of the Army, to which position she was subsequently restored after the charges against her were disproved, including expenses incurred in contesting such wrongful removal, and (2) for loss of increases in the salary of her position during the period of such wrongful removal for which she was not compensated upon restoration to such position.

DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES

The Senate proceeded to consider the bill (H.R. 7577) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Fed-

eral employees arising out of their operation of motor vehicles, and for other purposes, which had been reported from the Committee on the Judiciary with amendments, on page 2, line 24, after "(d)", to strike out "Any" and insert "With the consent of the plaintiff in any", and in line 25, after the word "court", to strike out "shall" and insert a comma and "such action or proceeding may".

The amendments were agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

EVELYN ALBI

The bill (H.R. 1653) for the relief of Evelyn Albi was considered, ordered to a third reading, read the third time, and passed.

PLACID J. PECORARO AND OTHERS

The Senate proceeded to consider the bill (H.R. 6121) for the relief of Placid J. Pecoraro, Gabrielle Pecoraro, and their minor child, Joseph Pecoraro, which had been reported from the Committee on the Judiciary, with an amendment on page 2, line 4, after the word "Act", to insert a colon and *"Provided,* That the passage of this Act shall not be construed as an inference of liability on the part of the Government of the United States.".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

YOUTH APPRECIATION WEEK

The Senate proceeded to consider the joint resolution (S.J. Res. 181) providing for the establishment of an annual Youth Appreciation Week.

Mr. KEATING. Mr. President, as the original sponsor of this measure to designate an annual Youth Appreciation Week, I am delighted the Senate is being given this prompt opportunity to approve it. I believe by means of this observance we can pay appropriate tribute to the great majority of our young people who are maturing into fine, useful citizens. We can demonstrate that juvenile delinquents, while they may command the headlines, are very much in the minority among our youth. We can salute the many dedicated Americans who are working day and night to help our young people through their difficut formative years, and we can focus attention on the various positive means by which our youth can be given encouragement and assistance.

I recognize, of course, that annual observances of Youth Appreciation Week will not, in and of themselves, solve the problem of juvenile delinquency. It is not any kind of a panacea. But it does represent a solid recognition by the Congress that there are many, many young people who are growing up to be outstanding citizens. It is a means for mounting a national effort to assist our young people in their difficult task of becoming adults. It can supplement the fundamental answers which, of course, must be found primarily in the churches, the homes, and the schools of America.

In connection with this resolution, I want to pay special tribute to Optimists International, the fine organization which for a number of years has sponsored observances all over the country of Youth Appreciation Week. They strongly support Senate Joint Resolution 181, and their backing has been instrumental in promoting action on this measure.

Mr. President, vigorous implementation of Youth Appreciation Week by Optimists Clubs and others concerned about the future of our young people can make this annual observance an important part of America's effort to strike back at juvenile delinquency. During this week we can emphasize the good things our young people, and the people who are helping them in their activities, are doing.. Such positive recognition is an essential part of this Nation's effort to mold the good and useful citizens of tomorrow.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, That the seven-day period beginning on the second Monday of November in each year is hereby designated as Youth Appreciation Week, and the President is requested to issue annually a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The preamble was agreed to.

REFERENCE OF S. 1153 TO THE COURT OF CLAIMS

The resolution (S. Res. 327) referring S. 1153 to the Court of Claims was considered and agreed to, as follows:

Resolved, That the bill (S. 1153) entitled "A bill to compensate the State of Oregon for firefighting costs", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Court of Claims; and the court shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimants.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

The concurrent resolution (S. Con. Res. 108) favoring the suspension of deportation in the cases of certain aliens was considered and agreed to, as follows:

Resolved by the Senate (the House of Representatives concurring), That the Congress favors the suspension of deportation in the case of each alien hereinafter named, in which case the Attorney General has suspended deportation pursuant to the provisions of section 244(a)(5) of the Immigration and Nationality Act (66 Stat. 214; 8 U.S.C. 1254(c)):

A-4337830, Balian, Hetoum.
A-3796156, Cocchiara, Francesco.
A-5805886, Dlachuk, Anton.
A-3217992, Donati, Dante Joseph.
A-5957256, Friesen, Jacob T.
A-10367234, Goethals, David.
A-6633188, Gustafson, Elmer Knute.
A-5398546, Hing, Lee.
A-3753202, Kirsch, Helen Ann Hudson.
A-4678924, Knaisky, Alex.
A-2916574, Krasinski, Felix Frank.
A-1843781, Kulesza, Stanley.
A-5062680, Lebel, Morris.
A-4084621, Leto, Gaetano.
A-3479810, Loeb, Harry.
A-2278968, Matuslak, Walter.
A-5958294, Morten, William Richard.
A-3399434, Padilla, Joe.
A-5164925, Parsin, Nicholas.
A-5761121, Reyes-Perez, Manuel.
A-6953945, Rosen, Reuben.
A-2823184, Ventrera, Rocco.
A-4535016, Vlahos, Anastasio.
A-6948450, Zarate, Lorenzo.
A-3785377, Vitagliano, Feleciano.
A-10949520, Cicchetti, Biaggio John.
A-6782676, Vielkind, Joseph Rudolph.
A-6401740, Willumeit, Otto Albert.
A-10087628, Cheung, Pat Kwock.
A-1853197, Ignotis, Leonas Louis.
A-5070555, Kulakowski, James.
A-5751283, Lara, Lupe Rincon.
A-4454891, Nestroy, Joseph.
A-3207150, Plevinsky John J.
A-10845906, Woon, Huey Gim.
A-1291890, Andrade-Marrero, Francisco.
A-2950893, Bigras, Norman John Leonard.
A-8874149, Hurtado, Raymond.
A-5206377, Ketzenzis, Basilios Demos.
A-5175516, McKay, Julia Elizabeth.
A-3028956, Moy, Yee.
A-8190474, Nadzam, John Andrew.
A-2561599, De Hernandez, Angelina Diaz.
A-3183469, Pagnozzi, Joseph Pepe.
A-5652064, Bagliore, Frank.
A-5731475, Folkers, Herman Richard.
A-11166168, Guillen-Porras, Marcos.
A-3173438, Herskovitz, Lajos.
A-1734315, Yeargle, Roy A.
A-5750516, Deutsch, Frank.
A-2079872, Glasser, Charles.
A-5480212, Hiracheta-Rodriguez, Anacelto.
A-10198028, Losa, Primitivo.
A-4682905, Russo, Guy Thomas.
A-10432443, Walter, George.
A-2323922, Phiskunoff, Peter.
A-2753700, Lopez, Manuel.
A-4963677, Andrews, Michael.
A-5938328, Hollander, Per Erik Gunnar.
A-5206147, Stern, Herman.
A-2610759, Alvanos, Blias.
A-10392830, Leppa, Michael.
A-1090977, Velasquez-Refugio, Francisco.
A-2539330, Mikkelsen, Hans Christian Gunnar.

REFERENCE TO COURT OF CLAIMS OF SENATE BILL 1284

The resolution (S. Res. 98) to refer to the Court of Claims the bill (S. 1284) for the relief of William E. Stone was considered and agreed to, as follows:

Resolved, That the bill (S. 1284) entitled "A bill for the relief of William E. Stone", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Court of Claims; and the court shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code and report to the Senate, at the earliest practical date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal

or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

REFERENCE TO COURT OF CLAIMS OF SENATE BILL 1651

The resolution (S. Res. 107) to refer to the Court of Claims the bill (S. 1651) for the relief of Archie L. Dickson was considered and agreed to, as follows:

Resolved, That the bill (S. 1651) entitled "A bill for the relief of Archie L. Dickson, Junior", now pending in the Senate, together with all the accompanying papers, is hereby referred to the Court of Claims, and the court shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand, as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

REFERENCE TO COURT OF CLAIMS OF SENATE BILL 2243

The resolution (S. Res. 140) referring to the Court of Claims the bill (S. 2243) for the relief of Feffer and sons was considered and agreed to, as follows:

Resolved, That the bill (S. 2243) entitled "A bill for the relief of Ralph Feffer and Sons", now pending in the Senate, together with all accompanying papers, is hereby referred to the Court of Claims; and the court shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28 of the United States Code and report to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States and the amount, if any, legally or equitably due from the United States to the claimant.

ANTE TONIC (TUNIC) AND OTHERS

The bill (S. 1396) for the relief of Ante Tonic (Tunic), his wife Elizabth Tunic, and their two minor children was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Ante Tonic (Tunic), his wife Elizabeth Tunic, and their two minor children, Ante Tunic, Junior, and Joseph Tunic, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct the required number from the appropriate quota or quotas for the first year that such quota or quotas are available.

HENRY K. LEE (HYUN KUI)

The bill (S. 2089) for the relief of Henry K. Lee (Hyun Kui) was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Henry K. Lee (Hyun Kui) shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

ANTONIO ABELE TARABOCCHIA

The bill (S. 2176) for the relief of Antonio Abele Tarabocchia was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Antonio Abele Tarabocchia shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

KARL ULLSTEIN

The bill (S. 2571) to amend the act entitled "An act for the relief of Karl Ullstein" was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act for the relief of Karl Ullstein", approved July 15, 1954 (68 Stat. A119), is amended by striking out "1960" and inserting in lieu thereof "1965".

LLOYD C. KIMM

The bill (S. 2646) for the relief of Lloyd C. Kimm was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Lloyd C. Kimm shall be held and considered to have been lawfully admitted to the United States for permanent residence as of July 31, 1925.

MRS. FLORIANA VARDJAN

The bill (S. 2717) for the relief of Mrs. Floriana Vardjan was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be is enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. Floriana Vardjan shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper quota-control officer to deduct one number from the appropriate quota for the first year that such quota is available.

FREDERICK T. C. YU AND HIS WIFE, ALICE SIAO-FEN CHEN YU

The bill (S. 2768) for the relief of Frederick T. C. Yu and his wife, Alice Siao-Fen Chen Yu was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Frederick T. C. Yu and his wife, Alice Siao-Fen Chen Yu, may be naturalized upon compliance with all of the requirements of title III of the Immigration and Nationality Act, except that—

(a) no period of residence or physical presence within the United States or any State shall be required in addition to their residence and physical presence within the United States since October 31, 1947; and

(b) their petitions for naturalization may be filed with any court having naturalization jurisdiction.

JOSEPH R. PAQUETTE

The bill (S. 2817) for the relief of Joseph R. Paquette was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Joseph R. Paquette of Homer, Alaska, is hereby relieved of all liability to repay to the United States the sum of $1,394.20, representing travel and transportation expenses incurred by the said Joseph R. Paquette in traveling with his dependents from Annette, Alaska, to Mexico City, Mexico, pursuant to travel order numbered 558–6801 issued by the Department of Commerce on June 25, 1957, authorizing such travel in accordance with the home leave provisions of the Act entitled "An Act to amend section 7 of the Administrative Expenses Act of 1946, as amended", approved August 31, 1954 (68 Stat. 1098), such travel order having been erroneously issued by reason of an administrative error.

SEC 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Joseph R. Paquette, the sum of any amounts received or withheld from him on account of the administrative error referred to the in the first section of this Act.

TOSHIKO HATTA

The bill (S. 2892) for the relief of Toshiko Hatta was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Toshiko Hatta shall be held and considered to have been lawfully ad-

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

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HIGHLIGHTS: House committee reported sugar bill. House passed bills to: Extend minimum national quota for extra long staple cotton; extend Defense Production Act. House passed over agricultural attache assignment bill. Senate agreed to conference report on Treasury-Post Office appropriation bill. Senate subcommittee approved Labor-HEW appropriation bill.

SENATE

1. TREASURY-POST OFFICE APPROPRIATION BILL, 1961. Agreed to the conference report on this bill, H. R. 10569, and rejected, by a vote of 49 to 25, a motion by Sen. Robertson to recede from one amendment in disagreement. Agreed to a motion by Sen. Williams, Del., to insist upon its position on the amendment in disagreement, and conferees were appointed on the amendment. pp. 11019-32

2. LABOR-HEW APPROPRIATION BILL, 1961. A subcommittee of the Appropriations Committee marked up and approved for full committee consideration this bill, H. R. 11390. p. D506

3. WOOL. The Judiciary Committee reported without amendment S. J. Res. 187, to provide for the designation of the month of September 1960, as National Wool Month (S. Rept. 1509). p. 10998

4. PUBLIC WORKS; FLOOD CONTROL. The Public Works Committee reported with amendments H. R. 7634, to authorize the construction, repair, and preservation of certain

public works on rivers and harbors for navigation and flood control (S. Rept. 1524) (p. 10998). The "Daily Digest" states that the Public Works Committee "approved a new Title 3 (relating to the evaluation of recreational benefits)" for inclusion in this bill (p. D507).

5. FARM PROGRAM. Sen. Keating inserted an address by Gov. Rockefeller, N. Y., discussing the economic growth potential of the U. S., and stating that "We must reorient our farm program to the goal of useful and more efficient production. A large number of low-income farmers presently account for only a small portion of agricultural output. We need a program that will really help these farmers to increase their productiveness by finding other opportunities with greater rewards to themselves and to the national economy. Here, too, we would advance the cause of economic growth." pp. 11099-13

6. POSTAL RATES; INFORMATION. Sen. Robertson inserted the testimony of the editor of the Southern Planter before the Senate Post Office and Civil Service Committee discussing the value of farm papers to the rural population, and opposing a proposed postal rate increase on such papers. pp. 11015-6

7. RECLAMATION. Agreed to S. Con. Res. 109, requesting the President to return S. 1892, to authorize construction of the Norman, Okla., reclamation project, for a correction in the engrossed copy of the bill (p. 11052). The resolution had been submitted by Sen. Mansfield earlier (p. 10998).

8. ART COUNCIL; INFORMATION. A subcommittee of the Labor and Public Welfare Committee voted to report to the full committee S. 447, to provide for the establishment of a Federal Advisory Council on the Arts to assist in the growth and development of the fine arts. p. D507

HOUSE

9. SUGAR. The Agriculture Committee reported with amendment H. R. 12311, to extend for one year the Sugar Act of 1948 (H. Rept. 1746). p. 11093

10. PERSONNEL. Passed over without prejudice, at the request of Rep. Gross, H. R. 8074, to permit the assignment of agricultural attaches to positions in the U. S. for a maximum of four years without reduction in grade. p. 11059

Agreed to the Senate amendments to H. R. 7577, to amend title 28 of the U. S. Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. This bill will now be sent to the President. pp. 11072-3

Passed without amendment H. R. 4271, to validate the salary overpayments made to certain officers and employees incident to the salary adjustment provisions of the Federal Employees Salary Increase Act of 1955. pp. 11073-4

Conferees were appointed on H. R. 4283, to provide that certain officers of the executive branch of the Federal Government appointed by the President and confirmed by the Senate shall be exempt from the District of Columbia Income and Franchise Tax Act of 1947. Senate conferees have not yet been appointed. p. 11088

11. WATERSHEDS. Passed as reported H. R. 11615, to amend the Watershed Protection and Flood Prevention Act so as to authorize Federal assistance on watershed projects prior to the acquisition of land, easements, or rights-of-way. p. 11063

withstanding any other provision of law, no part of the compensation for the property taken by the act of September 2, 1958 (72 Stat. 1762, Public Law 85-915), shall be subject to any lien, debt, or claim of any nature whatsoever against the Standing Rock Sioux Tribe or individual Indians entitled to the compensation except delinquent debts owed by the tribe to the United States: *Provided*, That upon determination by the Secretary of the Interior that no hardship to the individual Indian debtor will result from the payment of delinquent debts, such compensation shall be subject to delinquent debts (1) which are less than 6 years old on the date of this Act, and (2) which are owing to the United States or to the tribe by the individual Indian entitled to the compensation for the property taken.

With the following committee amendment:

Page 2, lines 4 and 5, strike out the words "(1) which are less than 6 years old on the date of this act, and (2)".

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended to read: "A bill concerning payment of debts out of compensation for trust land on the Standing Rock Sioux Reservation taken by the United States."

A motion to reconsider was laid on the table.

LONG STAPLE COTTON

The Clerk called the bill (H.R. 12115) to extend the minimum national marketing quota for extra long staple cotton to the 1961 crop.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 347(b) of the Agricultural Adjustment Act of 1938, as amended, is amended by amending the proviso in the last sentence to read as follows: "*Provided, however*, That the national marketing quota for 1960 and 1961 crops of such cotton shall be not less than 90 per centum of the 1959 marketing quota for such cotton.".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PARTICIPATION BY FEDERAL AGENCIES IN THE FIFTH INTERNATIONAL CONGRESS ON HIGH-SPEED PHOTOGRAPHY

The Clerk called Senate Concurrent Resolution 75.

There being no objection, the Clerk read the Senate concurrent resolution, as follows:

Whereas photographic techniques which can magnify the time scale of scientific phenomena are extremely important to the research and engineering activities of every nation; and

Whereas the First International Congress on High-Speed Photography was held in Washington, District of Columbia, in 1952, having been organized and conducted under the sponsorship of the Society of Motion Picture and Television Engineers; and

Whereas subsequent meetings were held at two-year intervals in Paris, France; London, England; and Cologne, Germany; and in each instance these meetings have received the recognition and the support of the governments of the respective host countries; and

Whereas, with each meeting, the International Congress on High-Speed Photography has grown in stature and in prestige; and

Whereas the Society of Motion Picture and Television Engineers is once again sponsoring the International Congress on High-Speed Photography in Washington, District of Columbia (this fifth congress will be held in October 1960); and

Whereas the Congress is fully appreciative of the importance of assuring that this international scientific meeting is conducted in a manner which will bring credit and enhanced prestige to the United States of America as the host nation; and

Whereas it is the belief of the Congress that—

(1) the democratic environment of the free world is the best environment for achievement in science; and

(2) scientists and engineers have special advantages and opportunities to assist in achieving international understanding since the laws and concepts of science cross all national and ideological boundaries; and

Whereas the Congress is interested in (1) promoting international understanding and good will; (2) enhancing the excellence of American science, both basic and applied; and (3) furthering international cooperation in science and technology by creating the necessary climate for effective interchange of ideas: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that all interested agencies of the Federal Government should participate actively to the greatest practicable extent in the Fifth International Congress on High-Speed Photography to be held in Washington, District of Columbia, in October 1960 under the sponsorship of the Society of Motion Picture and Television Engineers.

The Senate concurrent resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

INCREASING THE CLOSING FEE OF THE TRUSTEE IN BANKRUPTCY

The Clerk called the bill (S. 2052) to amend the Bankruptcy Act in regard to the closing fee of the trustee and in regard to the fee for the filing of a petition.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I simply want to put the Members of the House on notice that the costs of bankruptcy are going up if this bill is passed, so that we may be guided accordingly.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the part of subdivision c of section 48 of the Bankruptcy Act (11 U.S.C. 76c) up to the first colon is amended to read as follows:

"c. TRUSTEES.—The compensation of trustees for their services, payable after they are rendered, shall be a fee of $10 for each estate, deposited with the clerk at the time the petition is filed in each case, except when a fee is not required from a voluntary bankrupt, and such further sum as the court may allow, as follows:".

SEC. 2. That section 132 of the Bankruptcy Act (11 U.S.C. 532) is amended to read as follows:

"SEC. 132. The filing of a petition under this chapter shall be accompanied by payment to the clerk of a filing fee of $120 if no bankruptcy proceeding is pending, otherwise $70. Where $120 has been paid and an adjudication is entered under this chapter, $50 thereof shall be distributed by the clerk as in the case of a bankruptcy proceeding; but, if the proceeding under this chapter is dismissed and no order of adjudication is entered thereunder, such sum of $50 shall be refunded to the person paying it."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING THE BANKRUPTCY ACT RELATING TO THE TRANSMISSION OF CERTAIN DOCUMENTS

The Clerk called the bill (H.R. 7726) to amend section 678 of the Bankruptcy Act (11 U.S.C. 1078) relating to the transmission of petitions, notices, orders, and other papers to the Secretary of the Treasury in chapter XIII proceedings.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 678 of the Bankruptcy Act (11 U.S.C. 1078) is amended to read:

"SEC. 678. The court shall, in every case instituted under any provisions of this chapter, mail or cause to be mailed a copy of the notice of the first meeting of creditors to the district director of internal revenue for the district in which the court is located, and to the Comptroller General of the United States. Whenever the schedules of the debtor, or the list of creditors of the debtor, or any other papers filed in the case disclose a debt to the United States acting through any department, agency, or instrumentality thereof (except for any internal revenue obligation payable to the Secretary of the Treasury or his delegate), a notice of the first meeting shall be mailed as well to the head of such department, agency, or instrumentality."

With the following committee amendments:

On page 1, line 9, after "located" strike out the comma and the remainder of the sentence and insert a period.

On page 2, add the following new section:

"SEC. 2. Section 58e of the Bankruptcy Act, as amended (11 U.S.C. 94(e)), is amended by changing the comma following the word "located in the first sentence thereof to a period, deleting the balance of that sentence, and substituting for the deleted portion the following new sentence:

"'In cases involving a bankrupt where it clearly appears on the face of the petition that the bankrupt is or was engaged in the business of transporting persons or property, the court also shall mail, or cause to be mailed, a copy of such notice to the Comptroller General of the United States.'"

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMENDING BANKRUPTCY ACT TO REQUIRE FILING OF CERTAIN CLAIMS AND TO LIMIT THE TIME

The Clerk called the bill (H. R. 7727) to amend sections 334, 367, and 369 of the Bankruptcy Act (11 U.S.C. 734, 767, 769) and to add a new section 335 so as to require claims to be filed and to limit the time within which claims may be filed in chapter XI (arrangement) proceedings to the time prescribed by section 57n of the Bankruptcy Act (11 U.S.C. 93n).

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 334 of the Bankruptcy Act (11 U.S.C. 734) is amended to read as follows:

"SEC. 334. Within ten days after the petition is filed the court shall give notice by mail to the debtors, the creditors, and other parties in interest of a first meeting of creditors to be held not less than fifteen days nor more than thirty days after the date of the mailing of such notice. The last date for filing claims shall be set forth in such notice."

SEC. 2. That after section 354 of the Bankruptcy Act (11 U.S.C. 754) a new section is added to read as follows:

"SEC. 355. Where a petition is filed under section 322 of this Act, subdivision n of section 57 of this Act shall apply."

SEC. 3. That paragraph 3 of section 367 of the Bankruptcy Act (11 U.S.C. 767) is amended to read as follows:

"(3) the consideration deposited, if any, shall be distributed and the rights provided by the arrangement shall inure to the creditors affected by the arrangement whose claims (a) have been filed prior to the date of confirmation but within the time prescribed by section 355 of this chapter and are allowed or (b) have been filed after the date of confirmation but within the time prescribed by section 355 of this chapter and are allowed; and".

SEC. 4. Paragraphs (2) and (3) of section 369 of the Bankruptcy Act (11 U.S.C. 769) are amended to read as follows:

"(2) are disputed or unliquidated, have been scheduled by the debtor, and are filed within the time prescribed by section 355 of this chapter; or

"(3) arise from the rejection of executory contracts by the debtor and are filed within the time prescribed by section 355 of this chapter."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COTTON SAMPLING FOR CLASSIFICATION

The Clerk called the bill (H.R. 11646) to amend the act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton, as amended, by defining certain offenses in connection with the sampling of cotton for classification and providing a penalty provision, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act authorizing the Secretary of Agriculture to collect and publish statistics of the grade and staple length of cotton", approved March 3, 1927, as amended (44 Stat. 1372; 50 Stat. 62; 55 Stat. 131), is amended by inserting between section 3c and section 3d the following new sections:

"SEC. 3c–1. It shall be unlawful—

"(a) for any person sampling cotton for classification under this Act knowingly to sample cotton improperly, or to identify cotton samples improperly, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as a sampler;

"(b) for any person to influence improperly or to attempt to influence improperly or to forcibly assault, resist, impede, or interfere with any sampler in the taking of samples for classification under this Act;

"(c) for any person to alter, or cause to be altered, any sample taken for classification under this Act by any means such as trimming, peeling, or dressing the sample, or by removing any leaf, trash, dust, or other material from the sample;

"(d) for any person knowingly to cause, or attempt to cause, the issuance of a false or misleading certificate or memorandum of classification under this Act by deceptive baling, handling, or sampling of cotton, or by any other means, or by submitting samples of such cotton for classification knowing that the cotton has been so baled, handled, or sampled;

"(e) for any person knowingly to submit more than one sample from the same bale of cotton for classification under this Act, except a second sample submitted for review classification;

"(f) for any person knowingly to operate or adjust a mechanical cotton sampler in such a manner that a representative sample is not drawn from each bale; and

"(g) for any person knowingly to violate any regulation of the Secretary of Agriculture relating to the sampling of cotton made pursuant to section 3c of this Act.

"SEC. 3c–2. Any person violating any provision of section 3c–1 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $1,000, or imprisoned not more than one year, or both.

"SEC. 3c–3. In construing and enforcing the provisions of this Act, the act, omission, or failure of any agent, officer, or other person acting for or employed by an individual, association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the individual, association, partnership, corporation, or firm, as well as that of the person."

With the following committee amendments:

Page 3, line 8, strike out "473c" and insert "3c".

Page 3, line 16, insert "individual," before the word "association".

Page 3, line 19, insert "individual," before the word "association".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

AMENDING TITLE 28 ENTITLED "JUDICIARY AND JUDICIAL PROCEDURE"

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill H.R. 7577, to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 2, line 23, strike out "Any" and insert "With the consent of the plaintiff in any".

Page 2, line 24, strike out "shall" and insert ", such action or proceeding may".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

(Mr. LANE asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. LANE. Mr. Speaker, the enactment of H.R. 7577, although amended by the other body, is still a step forward in securing for Government employees that protection justifiedly due them when they become involved in litigation arising out of motor vehicle accidents while acting in the scope of their employment.

The purpose of this legislation was sought for a great many years. The evident unfairness of exposing drivers of Government motor vehicles to personal suits and the recovery of personal judgments for accidents arising during and out of the performance of their duties has been the basis for numerous bills for private relief which Congress has almost invariably granted.

The problems that confronted the Judiciary Committee in passing on legislation intended to remedy an unfair and unwarranted situation were many and complex. Not only were the interests and rights of the Federal Government involved and needful of protection but the rights of individuals were a matter of concern. The rights of employees as individuals and the jurisdiction of State courts over incidents of a tortious nature within a State's boundaries were matters to be considered and harmonized.

The bill that left this House to go to the other body was the subject of the careful consideration and scrutiny by the capable, able and competent members of the subcommittee each of whom, from professional competence, is learned in the law and certainly qualifies to be considered a lawyers' lawyer. As chairman of the subcommittee that worked on this legislation I can proudly assert that my distinguished colleagues on the subcommittee, the gentleman from Massachusetts [Mr. DONOHUE], the gentleman from South Carolina [Mr. ASHMORE], the gentleman from Pennsylvania [Mr. TOLL], the gentleman from Wisconsin [Mr. KASTENMEIER], the gentleman from California [Mr. KASEM], the gentleman from Ohio [Mr. HENDERSON], the gentleman from New York [Mr. LINDSAY], and the gentleman from New Jersey [Mr. CAHILL], all contributed from their vast store of legal training, knowledge, and general erudition so that this Congress can enact legislation which

was long sought, because it was long overdue, to correct inequities which should, in equity and justice, be corrected.

The bill, as it left this House, we all believed, was fair to all and harmonized all views on the basic proposition of protecting the employee, the Federal Government, third parties and the interests of States in matters which are of no concern to the interests of the Federal Government.

I believe the Senate amendment to this bill does not and will not materially affect the views of the House as expressed in the bill when it left the House for Senate action. I rest my belief on the view that the Senate amendment applies merely to the procedural aspects of the legislation and not to the basic purpose of limiting the right of action for property damage, personal injury or death exclusively to an action against the United States when the cause for such action arose from the operation of a motor vehicle by a Federal Government employee while acting within the scope of his employment and throws a cloak of protection around the employee from suits against him personally.

(Mr. HENDERSON (at the request of Mr. LANE) was given permission to extend his remarks at this point in the RECORD.)

Mr. HENDERSON. Mr. Speaker, the bill H.R. 7577 is intended to meet a very serious problem of possible personal liability which currently is faced by every U.S. employee who must operate a motor vehicle as a part of his Government employment. This bill meets that problem by amending section 2679 of title 28, United States Code, to provide that the remedy against the United States provided by the tort claims provisions of that title for damage to property, personal injury, or death resulting from the operation of a motor vehicle by an employee of the United States within the scope of his employment shall be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee involved or his estate. This is provided for in a new section (b) of section 2679, and I believe that this is clearly the basic part of the bill, for it makes clear the fact that the remedy provided against the United States in section 1346(b) of title 28 of the code is to be the exclusive remedy.

The Federal Tort Claims Act made it possible for individuals to bring tort actions against the Government in the Federal courts. However, the provisions of that act as now codified in title 28 of the United States Code do not afford a Government employee relief in those instances where an action is brought against him alone. Thus the authority is provided in title 28 for the bringing of suits against the United States based upon the very accidents which may also give rise to suits against the individual drivers. The tort claims provisions of title 28 further provide for the administrative settlement of claims up to $2,500 under the same circumstances. The result of the situation is that all of the persons who operate vehicles for the United States face the possibility of being sued as individuals for incidents which occur while they are performing duties in behalf of the Government.

As a practical matter, the injured party prefers to bring his action against the United States rather than against a man of limited resources who happened to have been driving the Government vehicle. As would be expected, when the action has been brought against the individual driver the judgments involved have been for relatively small amounts, but those judgments work a real hardship on the employee. While the Government has adopted a general policy of affording counsel and representation to employees sued in this manner, this does not help when a judgment has been entered against the man. The employee is then faced with the alternative of settling the judgment or of prosecuting an appeal. Very often the employee is forced to conclude the matter by paying the judgment or of prosecuting an appeal. Because of the additional expense and difficulty involved with an appeal, the employee is often forced to conclude the matter by paying the judgment.

In order to provide for an orderly application of this language, the bill would provide what amounts to procedural provisions in new subsections (c) and (d) proposed as a part of section 2679. First in new subsection (c) the bill provides for notice to the U.S. attorney of the commencement of any action against an employee, and for the defense of any such action by the Attorney General.

In subsection (c) providing for removal of an action commenced against an individual Federal employee in a State court to a U.S. district court the other body has inserted amendatory language conditioning the actual removal upon consent of the plaintiff. I believe this language must be read in the light of the provisions of new subsection (b), which provide that the remedy provided by the Federal tort claims provisions of title 28 are to be the exclusive remedy in such actions. Therefore, it appears that the amendatory language permits a plaintiff to, in effect, terminate the proceedings at that point by refusing his consent. I have some reservations concerning such an amendment, but I feel that in view of the demonstrated need for this legislation, it is best that the House accept the change so that legislation can be enacted at this session.

I would also like to refer to the settlement authority contained in new subsection (e) which would grant the Attorney General the authority to settle cases in the same manner as he now does under section 2677 of title 28.

This is a particularly important provision, for there may be cases in which the Attorney General will find it is to the advantage of the United States to settle the matter at the earlier stages of the proceeding. In those instances where the proceeding is commenced in a State court this settlement can be effected before removal to a U.S. district court. This makes possible the elimination of unnecessary delay and difficulty to everyone concerned, for if the case is a proper one for settlement it is only logical to provide authority for settlement without requiring removal to the Federal court.

I feel that we must frankly recognize that the problem concerning the liability of its employees is a matter of direct concern to the United States. The threat of this sort of liability to all Government employees who must operate vehicles in the course of their employment has an adverse effect on the efficiency and morale of those employees. This relationship between the Government and its employees was considered by the Supreme Court in the case of *United States* v. *Gilman* (347 U.S. 507 (1954)), and the Court made this statement concerning the importance of that relationship to the conduct of governmental affairs:

> The relations between the United States and its employees have presented a myriad of problems with which the Congress over the years has dealt. Tenure, retirement, discharge, veterans' preferences, the responsibility of the United States to some employees for negligent acts of other employees—these are a few of the aspects of the problem on which Congress has legislated. Government employment gives rise to policy questions of great import, both to the employees and to the executive and legislative branches.

PLACID J. PECORARO ET AL.

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 6121) for the relief of Placid J. Pecoraro, Gabrielle Pecoraro, and their minor child, Joseph Pecoraro, with Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

> Page 2, line 4, after "Act" insert ": *Provided*, That the passage of this Act shall not be construed as an inference of liability on the part of the Government of the United States".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

VALIDATING SALARY OVERPAYMENTS MADE TO CERTAIN OFFICERS AND EMPLOYEES

Mr. HARDY. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill H.R. 4271, which was passed over. I have discussed this matter with the gentleman from Michigan, and he has withdrawn his request.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the payments of compensation, including overtime, holiday, and other compensation, heretofore received by any officer or employee of the United States or the District of

Columbia for the period beginning with the first day of the first pay period which began after February 28, 1955, and ending on June 28, 1955, and which were based upon erroneously retroactive wage increases administratively granted in addition to the retroactive salary adjustments authorized by section 2(c) of the Federal Employees Salary Increase Act of 1955, are hereby validated. In any case in which the amount of any such payment has heretofore been refunded to the United States, the head of the agency concerned, upon application therefor filed within two years after the enactment of this Act, shall pay out of any money currently available for the payment of compensation of employees to the officer or employee making the refund, or in the event of his death to the person entitled thereto in accordance with section 1 of the Act of August 3, 1950 (5 U.S.C. 61f), an amount equal to the amount so refunded. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States or of the municipal government of the District of Columbia, full credit shall be given for the amount of any payments validated by this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

SUBCOMMITTEE ON HEALTH AND SAFETY

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Health and Safety be permitted to sit this afternoon during general debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

SMALL BUSINESS ACT

Mr. PATMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11207) to amend the Small Business Act so as to authorize an additional $150 million for loans to small business, and for other purposes.

The clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Act Amendments of 1960".

SEC. 2. As used in this Act, unless otherwise indicated, references to "the Act" are to the Small Business Act, approved July 18, 1958 (72 Stat. 384), as amended by the Small Business Investment Act of 1958, approved August 21, 1958 (72 Stat. 689), and as further amended by an Act approved September 22, 1959 (73 Stat. 647).

SEC. 3. Subsection 4(c) of the Act is amended—

(1) by striking out "$975,000,000" in each place it appears and inserting in lieu thereof "$1,125,000,000";

(2) by striking out "$575,000,000," and inserting in lieu thereof "$725,000,000".

SEC. 4. Subsection 5(b) of the Act is amended by striking the word "and" at the end of subparagraph (8); by changing the period at the end of subparagraph (9) to a semicolon and adding the word "and"; and by inserting at the end thereof a new subparagraph reading as follows:

"(10) notwithstanding section 3648 of the Revised Statutes of the United States, prepay rentals on safety deposit boxes used by the Administration for the safeguarding of instruments held as security for loans or for the safeguarding of other documents."

SEC. 5. Section 10 of the Act is amended—

(1) by striking out "every six months" from the first sentence of subsection (a) and inserting in lieu thereof ", on December 31 of each year,";

(2) by striking out "June 30 and" from subsection (b);

(3) by striking out subsection (c); and

(4) by respectively redesignating subparagraphs (d), (e), and (f) as (c), (d), and (e).

SEC. 6. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

The SPEAKER pro tempore. Is a second demanded?

Mr. WIDNALL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Mr. PATMAN. Mr. Speaker, I do not believe that much time will be necessary on this bill. It was unanimously reported by the subcommittee that conducted hearings on the bill, and it was unanimously reported by the Committee on Banking and Currency.

Mr. Speaker, the main purpose of this bill is to increase the authority of the Small Business Administration to make loans to small business concerns under its regular business loan program. Present law limits the amount of these loans which may be outstanding at any one time to $575 million. The bill would raise the limit to $725 million.

SBA estimates that the present $575 million ceiling will be reached in the first half of next year, and has requested the $150 million increase authorized by this bill in order to insure that SBA will be able to provide needed assistance to small firms that cannot arrange private financing on reasonable terms. The Banking and Currency Committee agreed unanimously to report this bill to the House, after Subcommittee No. 3, of which I am privileged to serve as chairman, held hearings on it and unanimously reported it to the full committee. I am sure the House shares the feelings of the committee, that we must make sure this authorization is sufficient to meet estimated needs and provide a reserve for contingencies. Before SBA can actually make these loans, of course, it must obtain appropriations from the Congress.

In addition, the bill would make three minor amendments to the Small Business Act. One would authorize SBA to make prepayments of rentals on safety deposit boxes. SBA commonly accepts securities as loan collateral, which must be kept in safety deposit boxes. Under the law today, this usually means SBA employees must pay the rent on these boxes in advance, and claim reimbursement from SBA at the end of the rental period.

A second amendment would place SBA's reports to the Congress on an annual basis. They are now required to report every 6 months. This requirement was imposed when SBA was a temporary agency, and the Congress wanted reports at short intervals to determine whether the program should be continued. In 1958, however, the Congress made SBA a permanent agency, and its reports should be on an annual basis, the same as other permanent agencies.

The last amendment would do away with a provision of the Small Business Act which requires the Attorney General to exercise surveillance over the SBA programs to see whether they promote undue concentration of economic power. This provision got into the law more or less inadvertently, and adds little or nothing to the Attorney General's responsibilities under other general laws. At the same time it creates an erroneous impression that the Attorney General should exercise special vigilance over SBA's operations. This was not intended, of course, and the bill repeals this provision.

Mr. WIDNALL. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan [Mr. HOFFMAN].

(Mr. HOFFMAN of Michigan asked and was given permission to revise and extend his remarks.)

Mr. HOFFMAN of Michigan. Mr. Speaker, I would like to ask the gentleman from Texas [Mr. PATMAN] a question. Does this do anything for the people, the druggists, principally, who are trying to get this fair trade bill up?

Mr. PATMAN. It has no reference to anything like legislation. It only authorizes $150 million if the SPA asks for it and the Committee on Appropriations of the House makes a report to the House and recommends it and the Congress passes it. This is just an authorization bill.

Mr. HOFFMAN of Michigan. Just more money.

Mr. PATMAN. Just more money, yes.

Mr. HOFFMAN of Michigan. It will not help these folks that want this fair trade legislation?

Mr. PATMAN. It has no reference to any legislation; none.

Mr. HOFFMAN of Michigan. And it does not affect any?

Mr. PATMAN. It does not affect any legislation.

Mr. HOFFMAN of Michigan. I would like to ask the members of the committee and, in fact, all the Members of the House to sign a discharge petition. It seems to be in style now to sign discharge petitions. I do not intend to sign this one I have in mind, because I do not sign discharge petitions. The wire I received this morning reads:

ST. JOSEPH, MICH., *June 4, 1960.*

Representative CLARE HOFFMAN,
House of Representatives,
Washington, D.C.:

As President of the Tricounty Druggist Association representing the majority of the following pharmacies and their employees, I urge you to sign discharge petition of H.R. 1253 for enactment of fair trade: Bangor, Swanstra Drug Store; Benton Harbor, Barnard Drug Co., Battlement Drug Co., Blz' Drug Store, Browns Pharmacy, Burke Drug Store, Fiar Drug Store, Fidelity Drug Store, Gillespies Drug Center, Gillespies Pharmacy, Muir's Cut Rate Drugs, Talbots Drug Store, Walgreen Drugstore, Wilders Inc.; Berrien Springs, Krause Pharmacy, Schug Drug Store; Bloomingdale, Spayde Drug Store;

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF BUDGET AND FINANCE

(For Department Staff Only)

Issued June 14, 1960
For actions of June 13, 1960
86th-2d, No. 107

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HIGHLIGHTS: Conferees agreed to file conference report on agricultural appropriation bill. House committee reported mutual security appropriation bill. Sen. McCarthy introduced and discussed farm labor bill.

HOUSE

1. AGRICULTURAL APPROPRIATION BILL, 1961. The "Daily Digest" states that conferees agreed to file a conference report on this bill, H. R. 12117. p. D543

2. CIVIL DEFENSE; OCDM. Both Houses received the annual report of the Office of Civil and Defense Mobilization. pp. 11486, 11601

3. CREDIT UNIONS. Both Houses received a report on a study made by the Director of the Bureau of Federal Credit Unions on the desirability of providing for federally chartered central credit unions. pp. 11486, 11601

4. MUTUAL SECURITY APPROPRIATION BILL, 1961. The Appropriations Committee reported without amendment this bill, H. R. 12619 (H. Rept. 1798). p. 11601

   Rep. Arends urged the Appropriations Committee to provide the funds requested by the President for mutual security stating it is a "question of our own safety ... a fundamental part of our own defense." p. 11569

   Reps. Gross and Hays supported cuts in the mutual security appropriations. pp. 11569-70

   Rep. Coffin made an "informal report" on the "operations and structure of the Development Loan Fund" stating it has "strategic importance" and urging Congressional support. pp. 11591-4

5. PERSONNEL. Received the President's veto message on H. R. 7577, providing for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment (H. Doc. 415). p. 11570

A subcommittee of the Post Office and Civil Service Committee voted to report to the full committee H. R. 7810, to credit periods of internment during World War II to certain Federal employees of Japanese ancestry for retirement and annual and sick leave purposes. p. D542

Passed as reported H. R. 12520, to authorize Group Hospitalization, Inc., to enter into contracts with certain dental hospitals for the care and treatment of individuals. (p. 11576) Earlier the D. C. Committee reported this bill with amendment (H. Rept. 1792). p. 11601

SENATE

6. LEGISLATIVE BRANCH APPROPRIATION BILL, 1961. A subcommittee of the Appropriations Committee marked up and approved for full committee consideration this bill, H. R. 12232. p. D540

7. ADMINISTRATIVE ORDERS; FOOD ADDITIVES. The Judiciary Committee reported without amendment H. R. 7847, to make the uniform law relating to the record on review of agency orders applicable to the judicial review of orders issued under the Federal Aviation Act of 1958 and the Food Additives Amendment of 1958 (S. Rept. 1566). p. 11487

8. VEHICLE INSURANCE; EXTENSION SERVICES. Both Houses received from this Department a proposed bill to facilitate the administrative operations of this Department by authorizing the Department to purchase insurance coverage on its vehicles in foreign countries, and to extend authority to use Federal supply schedules and GSA stores to the State Extension Services; to S. Agriculture and Forestry and H. Agriculture Committees. pp. 11486, 11601

9. SUGAR. Received from this Department a proposed bill to amend the Sugar Act of 1948 for the purpose of deleting the words "the Territory of" in the light of the admission of the State of Hawaii into the Union; to Finance Committee. p. 11486

10. PERSONNEL; TAXATION. Conferees were appointed on H. R. 4283, to amend the District of Columbia Income and Franchise Tax Act of 1947 so as to provide that certain officers of the executive branch of the Federal Government appointed by the President and confirmed by the Senate shall be exempt from the act. House conferees have already been appointed. p. 11560

11. RECLAMATION. Received a message from the President returning, as requested by the House and Senate, the enrolled bill S. 1892, to authorize the Secretary of the Interior to construct, operate, and maintain the Norman, Okla., reclamation project. p. 11485

12. FEDERAL AID. Sen. Bridges inserted an editorial and an article discussing Federal aid programs, including a table prepared by the Tax Foundation, Inc., listing Federal grants for agriculture and other purposes. pp. 11510-11

13. FOREIGN AID. Sen. Engle urged that the U. S. provide greater economic assistance to the countries of Asia. pp. 11553-7

14. FARM PROGRAM. Several Senators paid tribute to Senator Martin, who is retiring from the Senate after this session of Congress, including his service to agriculture. pp. 11513-21

86TH CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT
2d Session } { No. 415

AMENDING TITLE 28, ENTITLED "JUDICIARY AND JUDICIAL PROCEDURE," OF THE UNITED STATES CODE, TO PROVIDE FOR THE DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES ARISING OUT OF THEIR OPERATION OF MOTOR VEHICLES IN THE SCOPE OF THEIR EMPLOYMENT

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

RETURNING

WITHOUT APPROVAL, THE BILL (H.R. 7577) TO AMEND TITLE 28, ENTITLED "JUDICIARY AND JUDICIAL PROCEDURE," OF THE UNITED STATES CODE, TO PROVIDE FOR THE DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES ARISING OUT OF THEIR OPERATION OF MOTOR VEHICLES IN THE SCOPE OF THEIR EMPLOYMENT, AND FOR OTHER PURPOSES

JUNE 13, 1960.—Referred to the Committee on the Judiciary and ordered to be printed

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To the House of Representatives:

I return herewith, without my approval, H.R. 7577, to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

As originally introduced, this legislation provided that when a Government driver is sued in a State court on a claim resulting from his operation of a motor vehicle while acting within the scope of his employment, such action should be removed to the appropriate U.S. district court. There it would become an action against the United States under the Federal Tort Claims Act and be the plaintiff's exclusive judicial remedy. Government drivers would thus cease to be defendants and would be relieved of personal liability in such cases. These are desirable objectives.

The bill was amended, however, to require the consent of the plaintiff before any such action could be removed to a Federal court. This amendment is unfortunate, for any plaintiff, by refusing to give his consent, could prevent the conversion of the action to one under

the Federal Tort Claims Act and thus thwart the sound purposes of the original bill. The amendment also makes the bill inconsistent internally and could give rise to needless litigation.

Although unwilling, therefore, to approve this bill, I would gladly sign new legislation corresponding to H.R. 7577 as first passed by the House of Representatives.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *June 11, 1960.*

H.R. 7577

EIGHTY-SIXTH CONGRESS OF THE UNITED STATES OF AMERICA, AT THE SECOND SESSION, BEGUN AND HELD AT THE CITY OF WASHINGTON ON WEDNESDAY, THE SIXTH DAY OF JANUARY, ONE THOUSAND NINE HUNDRED AND SIXTY

AN ACT To amend title 28, entitled "Judicary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) With the consent of the plaintiff in any such civil action or proceeding commenced in a State court, such action or proceeding may be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

SAM RAYBURN,
Speaker of the House of Representatives.

CARL HAYDEN,
President of the Senate pro tempore.

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

RALPH R. ROBERTS, *Clerk.*
By H. NEWLIN MEGILL.

○

MESSAGE FROM THE SENATE

A message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed, with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5789. An act to incorporate the Agricultural Hall of Fame.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 1957. An act to encourage the discovery, development, and production of domestic tin;

S. 2759. An act to strengthen the wheat marketing quota and price support program; and

S. 3545. An act to amend section 4 of the act of January 21, 1929 (48 U.S.C. 354a (c)), and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1185. An act to provide for the preservation of historical and archieological data (including relics and specimens) which might otherwise be lost as the result of the construction of a dam; and

S. 1358. An act to authorize the Secretary of the Interior to provide a headquarters site for Mount Rainier National Park in the general vicinity of Ashford, Wash., and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4049) entitled "An act to amend the Federal Aviation Act of 1958 in order to authorize free or reduced-rate transportation for certain additional persons," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MONRONEY, Mr. ENGLE, Mr. BARTLETT, Mr. SCHOEPPEL, and Mr. MORTON to be the conferees on the part of the Senate.

REPORT OF COMMITTEE

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight, June 13, to file a report, which would, of course, include minority and any individual and supplemental views on H.R. 12580, a bill to extend and improve coverage under the Federal old-age, survivors, and disability insurance system and to remove hardships and inequities, improve the financing of the trust funds, and provide disability benefits to additional individuals under such system; to provide grants to States for medical care for aged individuals of low income; to amend the public assistance and maternal and child welfare provisions of the Social Security Act; to improve the unemployment compensation provisions of such act; and for other purpose.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

OVERALL LIMITATION ON FOREIGN TAX CREDIT

Mr. MILLS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10087) to amend the Internal Revenue Code of 1954 to permit taxpayers to elect an overall limitation on the foreign tax credit, together with Senate amendments thereto, disagree to the amendments of the Senate, and request a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas? [After a pause.] The Chair hears none, and without objection appoints the following conferees: Messrs. MILLS, FORAND, KING of California, MASON, and BYRNES of Wisconsin.

There was no objection.

PRESIDENT REQUESTS RESTORATION OF MILITARY ASSISTANCE AND DEFENSE SUPPORT FUNDS

(Mr. ARENDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, on many occasions the President has pointed out the importance of our mutual security program as a vital part of our national defense. Before leaving for his trip to the Far East he communicated with me, through his office by telephone and by wire, expressing his very great concern about the reductions made by the subcommittee of the Committee on Appropriations in the military assistance and defense support phase of this program.

As a member of the Committee on Armed Services, I am keenly aware of how important military assistance and defense support to our allies is toward our being able to deter war and to preserve freedom. Without this program we would be obliged to spend many billions of dollars, in addition to the billions we are already spending, for the maintenance of a larger Defense Establishment here at home.

As the President stated in his wire to me: "For our own security and for the common defense of the free world I most earnestly request your cooperation in restoring these funds."

Never in the history of international politics has a head of state shown greater forbearance than our own President in the face of calculated insult.

Allied capability to resist Russian pressures is not dependent upon their own military and economic strength. They do not have that strength themselves. We must complement with our own. Allied strength is a strategic projection of our own.

In this moment of international crisis, when the Soviet effort is directed toward destruction of the alliance of free nations, it is imperative that Congress stand resolutely behind our President in demonstrating our national solidarity and our determined faithfulness to our allies who are faithful to us.

Full support of the President's request for the funds necessary for needed military assistance will demonstrate the firmness with which we and our allies stand together against any and all threats, and devious maneuvers of the entire Communist apparatus.

It is obvious from what took place at the summit and what has been taking place in Tokyo that the evil forces of Communist aggression seek to divide and conquer those of us who love freedom more than life itself.

Mr. Speaker, the President, the Secretary of State, the Secretary of Defense, and the Joint Chiefs of Staff, urge us to provide the funds requested in the mutual security program for military assistance and defense support.

This is not simply a question of international diplomacy. This is a question of our own safety. We are dealing here with a fundamental part of our own defense. For this reason I take this time to urge the Committee on Appropriations to provide the funds to carry out this defense program.

FOREIGN AID

(Mr. GROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GROSS. Mr. Speaker, apropos of the remarks of the gentleman from Illinois [Mr. ARENDS] I hope that the President of the United States took along with him on his trip to Japan, when he had some leisure time to read, parts 1 and 2 of the hearings of the Subcommittee on Appropriations handling the foreign handout bill. If he spent some time reading these hearings he would note that the extravagance and waste justifies more than the $800 million cut in the foreign handout program that I hope the Appropriations Committee will make; in fact, I hope it will cut it more than a billion dollars.

FOREIGN AID

(Mr. HAYS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYS. Mr. Speaker, I was a little surprised to hear the speech just made by the gentleman from Illinois [Mr. ARENDS]. I do not know exactly just where he got his facts from, but I wonder if he is aware of the fact that considerably more than half the amount of money that the Committee on Appropriations threatens to cut is destined to a country in which mobs overthrew the government and mobs in the streets are running the country. There is no established government there. Yet he says we should continue to give money to a country like that. The chances are that if we would give them the money it will be used as the money we gave to Cuba was used, to set up a Communist government which in turn will be used against us.

I have supported this program for a long time, and I am going to support it

on the basis of a little commonsense because I have heard for a number of years the President's statement that if we cut the program it would cripple it. Yet we have cut the program each year, and it has continued to go on with a good deal of waste.

THE HONORABLE GORDON CANFIELD

(Mr. AUCHINCLOSS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and include a citation.)

Mr. AUCHINCLOSS. Mr. Speaker, whenever a Member of Congress is honored by receiving recognition from an institution of learning, I feel that we all share in such an honor and so it is with great pride that I announce to our Members that our colleague, GORDON CANFIELD, has received such recognition from the Paterson State College which has conferred on him the honorary degree of doctor of letters. The thought which prompted such an action is adequately expressed in the citation which accompanied the award and it reads as follows:

GORDON CANFIELD

Representative GORDON CANFIELD, honored as he already has been by his congressional colleagues, his party, his constituents, and by many other groups, stands as a symbol of excellence. In the comments of all those who have praised him, there is singular agreement concerning the high quality of his service to Nation, State, district, and constituents. In his long career in the Congress of the United States, he has come to personify the ideal public servant.

His record of voting and acting on principle, the vigor with which he has fought for all the things in which he believes, his willingness to spend unlimited time and energy in the interests of those whom he has served, the courtesy and grace with which he has listened to all who have sought his ear—these have lifted him, stanch partisan though he has been, so far above the level of partisan politics that he has been hailed widely as an unbeatable champion. And a true champion he is, a champion of the people, defender of their interests, a servant of their needs.

It is peculiarly fitting that an institution concerned primarily with preparing young people for public service should honor Representative CANFIELD. His high principles, his dedication to the ideal of service, his sound judgment, his capacity for hard work, his interest in people, his compassion—these and other fine qualities to be found in his record, his character, his personality, make him a perfect model for all who would serve the people by teaching. In honoring GORDON CANFIELD, Paterson State College brings honor to itself and to the teaching profession as a whole.

MARION E. SHEA,
President of the College.

WAYNE, N.J., *June 8, 1960.*

SUBCOMMITTEE ON COMMUNICATIONS AND POWER OF COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Communications and Power of the Committee on Interstate and Foreign Commerce have permission to sit during general debate today.

The SPEAKER pro tempore. Without objection, it is so ordered.

There was no objection.

TITLE 28, "JUDICIARY AND JUDICIAL PROCEDURE"—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 415)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I return herewith, without my approval, H.R. 7577, "To amend title 28, entitled 'Judiciary and Judicial Procedure,' of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes."

As originally introduced, this legislation provided that when a Government driver is sued in a State court on a claim resulting from his operation of a motor vehicle while acting within the scope of his employment, such action should be removed to the appropriate United States district court. There it would become an action against the United States under the Federal Tort Claims Act and be the plaintiff's exclusive judicial remedy. Government drivers would thus cease to be defendants and would be relieved of personal liability in such cases. These are desirable objectives.

The bill was amended, however, to require the consent of the plaintiff before any such action could be removed to a Federal court. This amendment is unfortunate, for any plaintiff, by refusing to give his consent, could prevent the conversion of the action to one under the Federal Tort Claims Act and thus thwart the sound purposes of the original bill. The amendment also makes the bill inconsistent internally and could give rise to needless litigation.

Although unwilling, therefore, to approve this bill, I would gladly sign new legislation corresponding to H.R. 7577 as first passed by the House of Representatives.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *June 11, 1960.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal and, without objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.

There was no objection.

OUR LADY OF THE LAKE CHURCH—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 414)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I return herewith, without my approval, H.R. 5150, "For the relief of Our Lady of the Lake Church."

The bill would direct a refund to Our Lady of the Lake Church, Mandeville, La., of $1,284.17 in customs duties assessed on organ boarding imported from Germany. In support of the refund, it is asserted that the organ boarding was denied free entry despite its hand-carved panels which constitute original sculptures of the type granted duty-free status under applicable law.

The entry free of duty of certain sculptures is permitted, but an express provision of the applicable law excludes any articles of utility. The Bureau of Customs has determined that the organ boarding in question is an article of utility within the meaning of the statute, and therefore does not meet the requirements for free entry.

The record contains no reason for granting special legislative relief in this case other than the belief that the law has been misinterpreted. Special legislation is not needed, however, in cases where the law may have been misinterpreted. General law provides procedures by which importers may challenge administratively and in the courts, the Bureau of Customs' interpretations of the laws relating to importation. The church did not avail itself of these procedures.

The bill would, therefore, discriminate in favor of a single importer who did not take advantage of the available remedies. Such a result would be unfair to other importers and would create an unwise and unsound precedent.

In view of the foregoing, I am constrained to withhold my approval of H.R. 5150.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *June 11, 1960.*

The SPEAKER pro tempore. The objections of the President will be spread at large upon the Journal and, without objection, the bill and message will be referred to the Committee on the Judiciary and ordered to be printed.

There was no objection.

GRAND LODGE OF NORTH DAKOTA, ANCIENT FREE AND ACCEPTED MASONS—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 416)

The SPEAKER pro tempore laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I return herewith, without my approval, H.R. 8417, "For the relief of Grand Lodge of North Dakota, Ancient, Free, and Accepted Masons."

The bill would direct a refund to the Grand Lodge of North Dakota, Ancient, Free, and Accepted Masons, of $1,155.26

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